



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: January 24, 2024
MOAHR Docket No.: 23-009153
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned administrative law judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held via telephone conference line on January 17, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Dania Ajami, lead specialist.

ISSUE

The issue is whether MDHHS properly processed Petitioner's State Emergency Relief (SER) application for energy assistance.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On February 6, 2023, MDHHS approved Petitioner for \$63 in monthly Food Assistance Program (FAP) benefits beginning March 2023.
2. On July 3, 2023, MDHHS approved Petitioner for \$66 in monthly Food Assistance Program (FAP) benefits beginning August 2023.
3. On September 5, 2023, MDHHS approved Petitioner for \$281 in monthly Food Assistance Program (FAP) benefits beginning October 2023.

4. On [REDACTED] 2023, Petitioner applied for SER seeking assistance with water, gas, and electric bills.
5. On October 10, 2023, MDHHS approved Petitioner for SER payments of \$562.49 for electricity and \$313.54 for natural gas based on unknown shut-off amounts.
6. On October 23, 2023, MDHHS approved Petitioner for \$205 in monthly Food Assistance Program (FAP) benefits beginning November 2023.
7. On December 8, 2023, Petitioner requested a hearing to dispute SER assistance for water, heat, and electricity. Petitioner additionally disputed FAP eligibility back to April 2023.
8. On December 12, 2023, MDHHS approved Petitioner for \$291 in monthly Food Assistance Program (FAP) benefits beginning December 2023. MDHHS additionally issued an \$86 supplement to Petitioner for November 2023.
9. On December 19, 2023, MDHHS approved Petitioner for a water bill payment of \$256.51.
10. On January 17, 2024, during an administrative hearing, Petitioner withdrew her dispute concerning FAP from November 2023 and SER- Water.
11. As of January 17, 2024, MDHHS did not establish that SER payments were issued for natural gas or electricity.

CONCLUSIONS OF LAW

The FAP (formerly known as the Food Stamp program) is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers the FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-119b, and Mich Admin Code, R 400.3001-.3011. FAP policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute FAP benefits from the previous eight months. Exhibit A, pp. 3-5. Going back eight months from Petitioner's hearing request month suggests a dispute of FAP benefits beginning April 2023.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) that an opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to consider the recipient's choice of

service. Furthermore, a client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (March 2021) p. 6.

MDHHS credibly testified it sent Petitioner written notices on February 6, July 3, and September 5, 2023, concerning Petitioner's respective FAP eligibility for March, August, and October 2023. Notably, each notice was sent more than 90 days before Petitioner's hearing request date of December 8, 2023. Thus, Petitioner failed to timely dispute FAP eligibility for benefit months from October 2023 and earlier.

MDHHS credibly testified that a written notice was sent on October 23, 2023, approving Petitioner for FAP benefits of \$205 beginning November 2023. MDHHS also testified that Petitioner was issued an \$86 FAP supplement on December 12, 2023, resulting in FAP benefits totaling \$291 for November 2023. During the hearing, Petitioner did not dispute FAP eligibility from November 2023 or later. Thus, any FAP dispute Petitioner had with MDHHS is considered resolved and/or untimely and is properly dismissed.¹

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER policies are contained in the Emergency Relief Manual (ERM).

Petitioner also requested a hearing to dispute SER eligibility. Exhibit A, pp. 3-5. Petitioner applied for SER on [REDACTED] 2023.² It was not disputed that Petitioner applied for SER seeking water, electricity, and natural gas services.³

Concerning SER- Water, MDHHS testified it approved Petitioner on December 19, 2023 for a water payment of \$256.51. During the hearing, Petitioner acknowledged she did not dispute the SER payment towards her water bill. Concerning, SER- Water, Petitioner's hearing request will be dismissed due to withdrawal.

Concerning lights and gas, MDHHS testified it sent Petitioner notice on October 10, 2023 of a \$562.49 payment for electricity and \$313.54 for natural gas. Petitioner contended that MDHHS should have approved a higher SER payment. Petitioner also contended that MDHHS failed to issue SER payment for gas or electricity as of the date of hearing.

¹ Petitioner repeatedly claimed that MDHHS acted willfully and maliciously by failing to issue proper FAP benefits throughout 2023. However, Petitioner's dispute appears resolved based on several supplements issued throughout 2023 (\$101 for May and April 2023 issued on October 23, 2023, \$113 supplements for June and July 2023 issued on October 24, 2023, \$110 for August 2023 issued on October 2023, \$110 for September 2023 issued on October 24, 2023, as well as the \$86 supplement for November 2023.

² Petitioner also reapplied for SER on [REDACTED] 2023, for help with water services. MDHHS properly did not process the superfluous application due to Petitioner's SER application from [REDACTED] 2023 (see ERM 203).

³ SER- Energy services includes assistance with electricity and natural gas services.

Low-income households who meet all SER eligibility requirements may receive assistance to help with household heat and electric costs. ERM 301 (April 2020) p. 1. When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. *Id.*, p. 3. The amount of the payment is the minimum necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. *Id.*, pp. 3-4. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. *Id.*, p. 4.

MDHHS's hearing packet failed to include evidence supporting that MDHHS properly calculated Petitioner's SER eligibility. Most notably, MDHHS provided no SER budget or supporting documentation that it factored the proper amount to stop a shut-off threat. MDHHS additionally failed to establish that SER payment was ever issued.

Given the evidence, MDHHS failed to establish it properly calculated Petitioner's SER eligibility concerning lights and or natural gas. As a remedy, Petitioner is entitled to a reprocessing of the SER application dated [REDACTED] 2023, concerning electricity and natural gas.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to timely dispute FAP eligibility. Additionally, Petitioner withdrew her dispute concerning SER- Water. Accordingly, Petitioner's hearing request concerning FAP and SER-Water eligibility is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish it properly processed Petitioner's SER application for SER- Energy. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's SER- Energy application dated [REDACTED] 2023, subject to the findings that MDHHS failed to establish that it factored a proper shut-off threat amount and that SER payment was issued; and
- (2) Issue notice and/or supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



Christian Gardocki
Administrative Law Judge

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail :

DHHS
Caryn Jackson
Wayne-Hamtramck-DHHS
12140 Joseph Campau
Hamtramck, MI 48212
**MDHHS-Wayne-55-
Hearings@michigan.gov**

Interested Parties
Wayne 55 County DHHS
BSC4
J. McLaughlin
T. Bair
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED], MI [REDACTED]