



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 31, 2024
MOAHR Docket No.: 23-009661
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness

HEARING DECISION

On December 20, 2023, Petitioner, [REDACTED] [REDACTED] requested a hearing to dispute a Food Assistance Program (FAP) benefit reduction and State Emergency Relief Assistance (SER) denial. Following Petitioner's hearing request, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 25, 2024. Petitioner appeared and represented himself. Respondent, Department of Health and Human Services (Department), had Lianne Scupholm, Hearings Facilitator, appear as its representative.

One exhibit was admitted into evidence during the hearing. A 26-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

Did the Department properly determine Petitioner's FAP benefit amount?

Did the Department properly deny Petitioner's request for SER assistance with relocation expenses, a security deposit, and moving expenses?

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 [REDACTED] [REDACTED] 2023, Petitioner applied for SER assistance with relocation expenses, a security deposit, and moving expenses.

2. On Petitioner's ██████████ ██████████ 2023, SER application, Petitioner reported that he was homeless.
3. Because Petitioner reported that he was homeless on his ██████████ ██████████ 2023, SER application, the Department updated Petitioner's FAP case to reflect that he was homeless.
4. Beginning November 1, 2023, Petitioner's FAP benefit amount was decreased from \$281.00 to \$207.00 per month.
5. The Department failed to notify Petitioner of the FAP reduction.
6. On December 20, 2023, Petitioner requested a hearing to protest the reduction of his FAP benefits and the Department's delay in determining his eligibility for SER assistance.

CONCLUSIONS OF LAW

FOOD ASSISTANCE

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The FAP 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. The Department administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Department reduced Petitioner's FAP benefit amount from \$281.00 to \$207.00 per month effective November 1, 2023. Petitioner is disputing this reduction.

When the Department decides to reduce a FAP benefit amount, the Department must give the client timely notice of the action. BAM 220 (July 1, 2023), p. 5. A timely notice is a notice that is mailed at least 11 days before the intended negative action takes effect. *Id.* Based on the evidence presented, the Department did not give Petitioner proper timely notice of the FAP benefit reduction before it took effect. Therefore, the Department's action in reducing Petitioner's FAP benefits amount cannot be upheld.

STATE EMERGENCY RELIEF

The SER program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

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) provides as follows:

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 take into account the recipient's choice of service.

The Department's Hearing Summary packet included Petitioner's [REDACTED] 2023, SER application, however, no further documentation was provided to show the Department properly processed his SER application and determined his eligibility. No written SER decision notice was included in the Department's proposed exhibit packet. Accordingly, the Department failed to meet its burden of going forward and establishing that it properly determined Petitioner's eligibility for SER assistance.

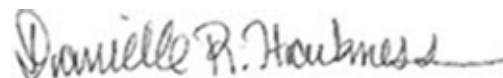
DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with its policies and the applicable law when it reduced Petitioner's FAP benefit amount and failed to properly determine Petitioner's eligibility for SER assistance with relocation expenses, a security deposit, and moving expenses.

IT IS ORDERED that the Department's FAP and SER decision is **REVERSED**. THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's FAP benefit amount to \$281.00 effective November 1, 2023, and issue any FAP supplement that Petitioner is otherwise eligible to receive.
2. Redetermine Petitioner's SER eligibility as of the application date of [REDACTED] 2023.

DH/nr



Danielle R. Harkness
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
Kristina Etheridge
Calhoun County DHHS
190 East Michigan
Battle Creek, MI 49016
**MDHHS-Calhoun-
Hearings@michigan.gov**

Interested Parties
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BSC3
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B. Cabanaw
J. McLaughlin
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MOAHR

Via-First Class Mail :

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