



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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: April 18, 2024
MOAHR Docket No.: 24-002845
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 telephone hearing was held on April 15, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Angela Ware, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for Food Assistance Program (FAP) benefits and application for State Emergency Relief (SER) 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 or around [REDACTED] 2024, Petitioner submitted an application requesting FAP benefits and SER assistance with heat and electric services. (Exhibit A, pp. 8-19)
 - a. With the application, on [REDACTED] 2024, Petitioner submitted to the Department a payment coupon from DTE that included information about a shut off notice and the amount required to avoid shut off of services. (Exhibit A, p. 20)

2. On or around February 16, 2024, the Department sent Petitioner a Verification Checklist (VCL) for the FAP, instructing her to submit proof of her unearned income as well as income and loss of employment information for her son [REDACTED] by February 26, 2024. (Exhibit A, pp. 21-23)
3. On or around February 23, 2024, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her request for SER assistance was denied because she did not provide a past due or shutoff notice. (Exhibit A, pp. 26-30)
4. On or around March 6, 2024, Petitioner requested a hearing disputing the Department's actions with respect to her FAP and SER benefits.
5. On or around March 11, 2024, the Department sent Petitioner a Notice of Case Action, informing her that her [REDACTED] 2024 FAP application was denied due to a failure to provide income and loss of employment verifications for her son [REDACTED].

CONCLUSIONS OF LAW

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).

FAP

The Food Assistance Program (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. The Department (formerly known as the Department of Human Services) 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 representative testified that Petitioner's FAP application was denied due to her failure to verify income and loss of employment for her son.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2023), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

For FAP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. The Department sends a negative action notice when the client indicates a refusal to provide a verification **or** the time period given has elapsed and the client has **not** made a reasonable effort to provide it. BAM 130, pp. 7-8.

At the hearing, the Department representative testified that in connection with the FAP application, a verification checklist was issued to Petitioner, instructing her to submit verification of earned and unearned income, as well as loss of employment for the household members identified in the VCL. Petitioner was instructed to submit all verifications by February 26, 2024. The Department testified that although Petitioner timely submitted verification of her receipt of unearned income from Supplemental Security Income (SSI), because the Department did not receive income and loss of employment information for Petitioner's son, the Notice of Case Action was issued, denying the application. Petitioner disputed the Department's testimony that she failed to submit verification of employment for her son. Petitioner credibly testified that on February 26, 2024, she submitted a handwritten statement to the Department on which she reported that her son had not been employed since November 2023 and has been unable to get in touch with his employer to submit loss of employment information. Petitioner testified that her son is a full-time student and is no longer employed. Petitioner read the handwritten statement into the record and asserted that she had previously submitted his final pay stubs in November 2023 in connection with prior applications that she submitted to the Department requesting FAP benefits. The Department reviewed Petitioner's electronic case file and located the handwritten statement identified by Petitioner and confirmed that it was received by the Department on February 26, 2024. The Department representative testified that upon receipt of the handwritten statement, because Petitioner provided the employer's information on the statement, the assigned specialist should have tried to make a collateral contact with the employer to obtain loss of employment information. The Department conceded that the [REDACTED] 2024, FAP application should be reprocessed, as it was improperly denied. The evidence established that Petitioner made a reasonable effort to obtain and submit the requested verifications and did not indicate a refusal to submit the requested verification of income.

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 Department policy when it denied Petitioner's FAP application.

SER

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.

Eligible households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. Funding for energy services

assistance is provided through the Low-Income Home Energy Assistance Program (LIHEAP). ERM 301 (October 2023), 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. ERM 301, pp. 3-4. The SER should be processed using the past due amount and current bills that are not subject to shutoff should not be included in the amount needed. ERM 301, pp. 3-5. The Department must verify past due status, threatened shutoff or the need for gas or electricity and a bill must be obtained before authorizing a payment. The Department will contact the energy company and can use the Online Resources for Agencies (ORA) to access a client's energy account information and verify the account statement provided on the website in lieu of an actual bill. If the online statement is used, a copy must be retained in the case record. ERM 301, pp.11-13.

In this case, the Department testified that Petitioner submitted an application requesting SER assistance with energy services on or around [REDACTED] 2024. The Department representative testified that on February 23, 2024, the Department sent a State Emergency Relief Decision Notice, notifying Petitioner that her application was denied because she did not have a past due shut off notice. Upon review however, the Department conceded that with the application, on [REDACTED] 2024, Petitioner submitted to the Department a payment coupon from DTE that included information about a shut off notice and the amount required to avoid shut off of services. (Exhibit A, p. 20). The Department testified that there was no evidence that it had utilized the ORA to verify the status of Petitioner's DTE account and no evidence that at the time she submitted her SER application, the account was not in past due or shut off status. The Department did not present any evidence in support of its February 23, 2024, denial of Petitioner's SER application.

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 Department policy when it denied Petitioner's [REDACTED] 2024, SER application.


DECISION AND ORDER

Accordingly, the Department's FAP and SER decisions are **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. Register and process Petitioner's [REDACTED] 2024, FAP and SER application to determine the household's eligibility for FAP and SER benefits from the application date, ongoing;
2. Issue FAP supplements to Petitioner for any benefits she was eligible to receive but did not from the application date, ongoing, in accordance with Department policy;
3. Supplement Petitioner and/or her SER provider for any SER benefits that she was eligible to receive but did not from the application date, ongoing; and
4. Notify Petitioner in writing of its decisions.

ZB/ml



Zainab A. Baydoun
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

Tracy Felder
Wayne-Southwest-DHHS
2524 Clark Street
Detroit, MI 48209
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Interested Parties

BSC4
M Holden
B Cabanaw
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E Holzhausen

Via First Class Mail:

Petitioner

[REDACTED]
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