



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
DIRECTOR

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Date Mailed: July 3, 2024
MOAHR Docket No.: 24-005697
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 June 24, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Kimberly Owens, Assistance Payments Worker.

ISSUE

Did the Department properly determine Petitioner’s Food Assistance Program (FAP) benefit amount?

Did the Department properly deny Petitioner’s State Disability Assistance (SDA) application due to excess income?

Did the Department properly process 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 ██████████ 2024, Petitioner submitted an application for FAP and SER assistance with heat and non-heat electricity. (Exhibit A, pp. 8-15). The Department approved a monthly FAP benefit amount of \$23 with \$20 being recouped due to an Intentional Program Violation (IPV) sanction placed on Petitioner’s case file. (Exhibit A, p. 3). Petitioner’s SER request was denied because Petitioner’s heat and non-heat electricity accounts did not reflect a past due balance. (Exhibit A, p. 35-37).

2. On [REDACTED] 2024, Petitioner submitted an application for cash assistance and SER assistance with non-heat electricity. (Exhibit A, pp. 16-23). The Department denied Petitioner's cash assistance request based on her household income exceeding the budgetary needs test. (Exhibit A, pp. 3, 39).
3. On May 21, 2024, the Department sent Petitioner a SER Decision Notice approving Petitioner for \$850 in total payments towards both her heat and non-heat electricity costs, conditional upon Petitioner submitted proof of a copayment \$265.41 and \$501.88 by June 11, 2024.
4. Petitioner receives Retirement, Survivor's, and Disability Insurance (RSDI) in the amount of \$[REDACTED] monthly and unemployment benefits biweekly in the amount of \$[REDACTED]
5. On May 6, 2024, Petitioner requested a hearing disputing the Department actions concerning her FAP, SDA, and SER applications. (Exhibit A, pp. 4-5).

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 her FAP application, Petitioner stated that she lives with her adult son, but they purchase and prepare food separately. Therefore, she is a single-person FAP group. (Exhibit A, p. 9).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Petitioner receives Retirement, Survivors, and Disability Insurance (RSDI) in the amount of \$[REDACTED] monthly and unemployment benefits biweekly in the amount of \$[REDACTED] (Exhibit A, p. 3). The Department properly determined that Petitioner's countable unearned income was \$[REDACTED]

The Department provided a FAP budget for a benefit period of April 1, 2024 through April 30, 2024. (Exhibit A, p. 33). The budget identified Petitioner's unearned income

from RSDI and unemployment of \$[REDACTED]. The budget included a standard deduction of \$198, a medical deduction of \$165, and excess shelter deduction of \$876. The Department determined that Petitioner was eligible for \$23 in FAP benefits. This FAP benefit amount was reduced to \$3 due to a FAP overpayment sanction beginning April 1, 2023. (Exhibit A, p. 32).

At the hearing, the Department stated that it updated Petitioner's FAP budget based on a change in income. The Department testified that effective June 1, 2024, Petitioner was approved for FAP benefits in the amount of \$291. The Department indicated that Petitioner's benefit amount continues to be reduced due to an IPV sanction. At the hearing, Petitioner continued to dispute the FAP benefit amount, with her main contentions focused on the recoupment sanction that was established in April 2023 (Exhibit A, p. 32).

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.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). BAM 600 (February 2024), p. 2. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, Petitioner filed a hearing request on May 6, 2024 based on a March 21, 2024 FAP decision. At the hearing, Petitioner attempted to relitigate the IPV sanction and whether it was fair for the Department to recoup those overissued benefits. Based on her currently approved FAP benefit amount of \$291, which is the maximum benefit amount provided for a single-person group, Petitioner does not have a disputable issue regarding FAP. Petitioner's concerns regarding the 2023 IPV sanction is not within the undersigned jurisdiction to review. Therefore, Petitioner's hearing request concerning FAP is **DISMISSED**.

SDA

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Family Independence Program (FIP), Refugee Cash Assistance (RCA) and SDA are cash assistance programs designed to help individuals and families become self-sufficient. When an individual applies for cash assistance, Bridges determines group composition and builds an eligibility determination group (EDG) for these programs in the following order: FIP, RCA and SDA. Cash assistance is available to eligibility determination groups who meet all the non-financial and financial requirements that are needed to determine eligibility and calculate benefit amounts. BEM 209 (January 2022), p. 1.

In her ██████████ 2024 application, Petitioner requested cash assistance. Petitioner lived alone, denied being the caretaker of minor children, and did not identify herself as a refugee or asylee. (Exhibit A, pp. 16-23). Under these circumstances, the only cash assistance program potentially available to Petitioner was the SDA program. BEM 214 (April 2019), p. 1; BEM 215 (July 2013), p. 1; BEM 210 (July 2021), p. 1.

To receive cash assistance under the SDA program, the certified group must be in financial need. BEM 518 (July 2023), p. 1. To establish financial need for SDA, SDA applicants must pass the qualifying deficit test. BEM 518, p. 1. In the qualifying deficit test, the SDA group's budgetable income is subtracted from the certified group's payment standard for the application month. BEM 518, p. 1. The resulting sum must be at least \$10 to qualify to receive a cash benefit. If the resulting sum is less than \$10, including a negative amount, no financial need exists, and the group is not eligible to receive cash assistance benefits. BEM 518, p. 4. The Department properly determined that the payment standard applicable to Petitioner's living circumstances was \$200.00. RFT 225 (December 2013), p. 1.

In this case, the Department presented an SDA Income Test budget. (Exhibit A, p. 39). The Department properly budgeted Petitioner's unearned income in the amount of \$1,129 based on her monthly RSDI benefits amount. Petitioner confirmed this unearned income amount. Petitioner is not eligible for any deductions. See BEM 518, p. 5. The budget included unearned income in addition to Petitioner's RSDI, and the Department failed to identify where the additional unearned income came from. Therefore, Petitioner's budgetable income is \$1,129, which exceeded the \$200.00 SDA payment standard that applied to her case. Therefore, the Department properly denied Petitioner's SDA application due to excess income.

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.

In Petitioner's ██████████ 2024 application for SER assistance with heat and non-heat electricity, the Department denied the request because Petitioner's heat and non-heat electricity accounts did not reflect a past due balance. (Exhibit A, p. 35-37).

In the ██████████ 2024 application, Petitioner requested SER assistance with heat and non-heat electricity. 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. Before the Department will authorize payment of its portion of the cost of services, the client must verify that it or another agency has paid any copayment, shortfall, and contribution. ERM 208 (October 2023), p. 5.

In this case, Petitioner requested SER assistance totaling \$2,467.29. (Exhibit A, p. 35). The Department notified Petitioner that it would pay her heat and non-heat electricity provider \$850 for both after she paid the provider her \$265.41 and \$501.88 copayments. Petitioner did not submit the verification that the requested copayments were made, stating that the copayments were unaffordable. Since policy requires that a copayment is submitted prior to the SER payment authorization, the Department properly denied Petitioner's SER request for failure to provide proof that the required copayments were made.

In her request for hearing and during the hearing, Petitioner stated that she has endured unfair treatment and discrimination from the Department. (Exhibit A, p. 5). Complaints alleging misconduct or mistreatment by a state employee cannot be considered by an ALJ in an administrative hearing and must be referred to the Department or its customer service unit in accordance with Michigan Administrative Code, Rule 792.11002(3).

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 acted in accordance with Department policy when it determined Petitioner's SDA and SER eligibility, and Petitioner's hearing request concerning FAP is DISMISSED.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's SDA and SER applications and **DISMISSED IN PART** with respect to Petitioner's FAP application.

LC/ml


L. Alisyn Crawford
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:

Respondent

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Interested Party

BSC4
L Karadsheh
E Holzhausen
J McLaughlin
MOAHR

Via First Class Mail:

Petitioner

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