



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: September 26, 2022
MOAHR Docket No.: 22-003429
Agency No.: ██████████
Petitioner: ██████████

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 September 21, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Michael Butler, manager, and Alinda Miller, Pathway to Potential coach.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's State Emergency Relief (SER) application requesting energy assistance.

The second issue is whether MDHHS properly terminated Petitioner's Food Assistance Program (FAP) eligibility.

The third issue is whether there is administrative jurisdiction for Petitioner's request for a different MDHHS specialist.

FINDINGS OF FACT

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

1. As of July 2022, Petitioner received FAP benefits as a member of a group that included Petitioner's adopted great-granddaughter (hereinafter, "GGD").
2. As of July 2022, Petitioner and GGD respectively received \$██████ and \$██████ in monthly Retirement, Survivor, Disability Insurance (RSDI) benefits.
3. As of July 2022, Petitioner received a monthly pension of \$██████.

4. On [REDACTED] 2022, Petitioner applied for SER seeking assistance with an energy bill and reported a household of two persons. Petitioner reported no adoption subsidy income.
5. On July 22, 2022, during an interview, Petitioner reported to MDHHS receiving adoption support subsidy income of \$[REDACTED] per month.
6. On July 22, 2022, MDHHS denied Petitioner's SER application due to excess income.
7. On July 22, 2022, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of adoption subsidy income by August 1, 2022.
8. On August 3, 2022, MDHHS terminated Petitioner's FAP eligibility beginning September 2022 due to a failure to verify adoption subsidy income.
9. On August 8, 2022, Petitioner requested a hearing to dispute the denial of SER and closure of FAP benefits. Petitioner additionally requested that a previous specialist be assigned to her case.
10. As of August 8, 2022, Petitioner had not submitted verification of adoption subsidy income to MDHHS.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Emergency Relief Manual (ERM).

Petitioner requested a hearing, in part, to dispute a denial of an SER application. Exhibit A, pp. 3-4. It was not disputed that Petitioner applied for SER on [REDACTED] 2022, seeking money for an energy bill. A State Emergency Relief Decision Notice dated July 20, 2022, stated that Petitioner was denied SER due to excess income. Exhibit A, pp. 5-7.

There are no income copayments for SER-energy. ERM 208 (October 2021) p. 1. With respect to income, clients are either eligible or not for SER-Energy. *Id.* For a group to be eligible for SER-Energy, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period, cannot exceed the income standard which is based on the number of group members. *Id.* If the income exceeds the income standard limit, the SER request must be denied. *Id.*

A single SER group consists of persons who occupy the same home. ERM 201 (October 2020) p. 1. It was not disputed that Petitioner resided with GGD. Thus, Petitioner's SER group size is two persons.

MDHHS is to verify and budget all non-excluded gross income the SER group expects to receive during the countable income period. ERM 206 (November 2019) p. 1. The countable income period consists of 30 days beginning with the SER application date. *Id.*

MDHHS testified it budgeted respective monthly RSDI of \$[REDACTED] and \$[REDACTED] for Petitioner and GGD. MDHHS also testified it budgeted a monthly pension of \$[REDACTED] and a monthly adoption subsidy of \$[REDACTED]. RSDI, pensions, and adoption subsidies are all countable income in the SER budget (see ERM 206). During the hearing, Petitioner acknowledged that all income budgeted by MDHHS was accurate.¹ Adding the income results in a total countable income of \$[REDACTED]

The SER-energy income standard limit for a two-person group is \$2,178. ERM 208 (October 2021) p. 8. Petitioner's net income of \$[REDACTED] exceeds the income limit for SER-Energy. Thus, MDHHS properly denied Petitioner's SER application due to excess income.

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 also requested a hearing to dispute a termination of FAP benefits. A Notice of Case Action dated August 3, 2022, stated that Petitioner's FAP eligibility would end September 2022 due to a failure to verify unearned income. Exhibit A, pp. 8-11. MDHHS specifically alleged that Petitioner failed to verify adoption subsidy income.

For FAP, MDHHS is to verify income when a reported income change is unclear, inconsistent, or questionable. BEM 500 (April 2022) p. 14. Petitioner applied for SER on [REDACTED] 2022 and reported no adoption subsidy income. Two days later, during an interview, Petitioner reported receiving a monthly adoption subsidy income of [REDACTED]. Given Petitioner's inconsistencies, MDHHS properly requested verification of adoption subsidy income.

For all programs, MDHHS is to inform the client what verification is required, how to obtain it, and the due date. BAM 130 (January 2022) p. 3. MDHHS is to use the VCL to request verification. *Id.* For FAP, MDHHS is to allow the client at least 10 calendar days

¹ Petitioner's and GGD's RSDI was also verified by documentation from the Social Security Administration. Exhibit A, pp. 16-19

to provide the verification that is requested. *Id.*, p. 8. MDHHS may send a negative action notice when either:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it.

MDHHS mailed Petitioner a VCL on July 22, 2022, requesting proof of adoption subsidy income. Exhibit A, pp. 12-14. Petitioner's testimony acknowledged that she did not submit verification of the income to MDHHS by the VCL due date of August 1, 2022, the notice of case closure mailing date, or before case closure occurred in September 2022.

MDHHS established that it properly requested proof of Petitioner's adoption subsidy income. The evidence further established that Petitioner failed to verify adoption subsidy income. Thus, MDHHS properly terminated Petitioner's FAP eligibility.

Petitioner lastly requested a hearing to have her previous specialist reassigned to her case. A hearing can be granted for actions affecting benefits or services. Administrative hearing jurisdiction is limited to the following:

- Denial of an application or supplemental payment.
- Reduction in benefits or services.
- Suspension or termination of benefits or services.
- Restrictions under which benefits or services are provided.
- Delays in action beyond the standards of promptness.
- A denial of expedited service or the current level of benefits (FAP and CDC only)

BAM 600 (January 2020) p. 5.

A request for a new specialist is not among the reasons that a hearing may be granted. Thus, Petitioner's request for a new specialist must be dismissed due to lack of jurisdiction.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds there is no administrative hearing jurisdiction for Petitioner's request for a different specialist. Concerning Petitioner's request for a different specialist, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's SER-Energy application dated [REDACTED] 2022. MDHHS also properly terminated Petitioner's FAP eligibility beginning September 2022.

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

CG/mp



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
MDHHS-Wayne-23-Hearings
E. Holzhausen
D. Sweeney
M. Holden
MOAHR
T. Bair
BSC4

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]