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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: April 27, 2023
MOAHR Docket No.: 23-001682
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 April 20, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Lori Turner, specialist.

ISSUES

The first issue is whether MDHHS properly processed Petitioner's State Emergency Relief request for energy assistance (SER-Energy) dated ██████████ 2022.

The second issue is whether MDHHS properly denied Petitioner's SER-Energy application dated ██████████ 2023.

The third issue is whether MDHHS properly denied Petitioner's request for replacement Food Assistance Program (FAP) benefits.

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 ██████████ 2022, Petitioner applied for SER-Energy.
2. On September 19, 2022, MDHHS approved Petitioner for \$██████████ subject to receiving proof of a copayment of \$██████████ by October 5, 2022.
3. On September 22, 2022, Petitioner submitted to MDHHS proof of \$150 payment to her energy provider.

4. On September 29, 2022, Petitioner submitted to MDHHS proof of \$237 payment to her energy provider.
5. On [REDACTED], 2023, Petitioner reapplied for SER-Energy.
6. On February 22, 2023, MDHHS denied Petitioner's SER-Energy application due to Petitioner not applying for a covered service.
7. On March 6, 2023, Petitioner submitted to MDHHS an affidavit requesting replacement FAP benefits.
8. On March 10, 2023, MDHHS denied Petitioner request for replacement FAP benefits due to Petitioner not being a recipient of FAP benefits as of March 6, 2023.
9. On March 7, 2023, Petitioner requested a hearing to dispute the following: MDHHS's failure to process SER-Energy payment of \$[REDACTED], denial of SER-Energy application dated [REDACTED] 2023, a closure of FAP benefits beginning March 2023, and denial of replacement FAP benefits.
10. As of April 20, 2023, MDHHS had not processed the \$[REDACTED] SER payment.
11. On April 20, 2023, Petitioner withdrew her dispute over a termination of FAP benefits.

CONCLUSIONS OF LAW

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

Petitioner requested a hearing, in part, to dispute MDHHS's failure to process a conditional SER payment. Exhibit A, pp. 3-4. The dispute related to Petitioner's SER-Energy application dated September 6, 2022. Exhibit A, pp. 6-18. A State Emergency Relief Decision Notice dated September 19, 2022, stated that Petitioner was eligible for SER payment of \$[REDACTED]. Exhibit A, pp. 19-21. The SER notice also informed Petitioner that SER payment was conditional upon submitting to MDHHS proof of a \$385.45 copayment by October 5, 2022.

Low-income households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (December 2022) p. 1. If the SER group meets all eligibility criteria but has a copayment, shortfall, or contribution, MDHHS is to not issue payment until the client provides proof that payment has been made or will be made by another agency. ERM 208 (December 2022) p. 5. Verification of payment must be received in the MDHHS office within the 30-

day eligibility period or no SER payment will be made, and the client will then have to reapply. *Id.* The State Emergency Relief Decision Notice must be used to inform the SER group of the amount that must be paid and the due date for returning proof of payment. *Id.* The deadline date is always the last day of the 30-day eligibility period regardless of when the client requests the service. *Id.*

The only disputed issue concerning the SER-Energy application dated [REDACTED] 2022, was whether Petitioner submitted to MDHHS proof of copayment by October 5, 2022. MDHHS contended it did not timely receive Petitioner's proof of copayment. Petitioner responded that she emailed MDHHS receipts of \$150 and \$237 on September 22 and September 29, 2022, respectively. After checking Petitioner's energy provider's website, MDHHS testimony acknowledged that Petitioner paid her energy provider \$150 and \$237 on the same dates that Petitioner testified she submitted proof of payment to MDHHS. Petitioner's payments to her energy provider were consistent with a timely submission of copayment proof.

Given the evidence, Petitioner timely submitted to MDHHS proof of SER-Energy copayment totaling \$387 by October 5, 2022. Thus, MDHHS improperly failed to process Petitioner's SER-Energy payment.¹

Petitioner additionally requested a hearing to dispute multiple SER applications submitted after September 6, 2022.² Exhibit A, pp. 3-4. During the hearing, the only SER application that Petitioner alleged MDHHS improperly processed was an SER-Energy application dated [REDACTED] 2023. MDHHS testified that a State Emergency Relief Decision Notice dated February 22, 2023, stated that Petitioner's application was denied due to Petitioner not requesting a covered service.

Under ERM 301, as stated above, an energy bill arrearage is a covered SER service. MDHHS testimony acknowledged that Petitioner's request for energy services dated February 13, 2023 requested a covered SER service and was improperly denied. Given the evidence, MDHHS improperly denied Petitioner's SER application dated [REDACTED] [REDACTED] 2023. As a remedy, Petitioner is entitled to a reprocessing of the application.

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).

¹ The SER payment of \$ [REDACTED] may be reduced by \$1.55 due to the slight overpayment of the copayment.

² MDHHS correctly did not process an application dated [REDACTED] 2022, due to the submission being within 30 days of a previous SER application. MDHHS approved Petitioner for a conditional SER payment in November and Petitioner acknowledged not making a timely copayment.

Petitioner also requested a hearing to dispute a closure of FAP benefits. Exhibit A, pp. 3-4. It was not disputed that Petitioner's FAP eligibility ended beginning March 2023. During the hearing, Petitioner testified she reapplied for FAP benefits and was approved. Petitioner further testified her dispute over FAP closure was resolved and that she no longer needed a hearing to resolve the dispute. MDHHS had no objections to Petitioner's partial hearing request withdrawal. Given the evidence, Petitioner's hearing request concerning FAP closure will be dismissed.

Petitioner lastly requested a hearing to dispute a denial of FAP benefit replacement. Exhibit A, pp. 3-4. MDHHS testified that Petitioner submitted an affidavit for FAP benefit replacement on March 6, 2023.³ MDHHS also testified that Petitioner's request for FAP benefit replacement was denied on March 10, 2023, due to Petitioner not being a recipient of FAP benefits as of her affidavit submission date.

FAP recipients may be issued a replacement of FAP benefits when food purchased with FAP benefits was destroyed in a domestic misfortune or disaster and reported timely. BAM 502 (January 2022) p. 1. Persons seeking FAP benefit replacement are to complete a Food Replacement Affidavit within 10 days of the misfortune or disaster. *Id.*, p. 2.

MDHHS closed Petitioner's FAP case beginning March 2023 and Petitioner did not reapply until [REDACTED] 2023. However, the evidence suggested that MDHHS later approved Petitioner for FAP benefits back to Petitioner's application date of [REDACTED] 2023. MDHHS's approval rendered Petitioner to be a FAP recipient beginning March 6, 2023. Thus, MDHHS wrongly denied FAP benefit replacement by concluding Petitioner was not a FAP recipient as of the request date.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute over a termination of FAP benefits beginning March 2023. Concerning a closure of FAP benefits beginning March 2023, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to process Petitioner's SER payment related to Petitioner's application dated [REDACTED] 2022. MDHHS also failed to properly process Petitioner's SER-Energy application dated [REDACTED] 2023. MDHHS additionally improperly denied Petitioner's request for FAP benefit replacement. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

³ MDHHS's hearing packet failed to address Petitioner's dispute of FAP benefits. Thus, all taken evidence was testimonial.

- (1) Process Petitioner's SER-Energy application dated [REDACTED] 2022, subject to the finding that Petitioner submitted proof of a \$387 copayment by September 29, 2022;
- (2) Reregister and reprocess Petitioner's SER-Energy application dated [REDACTED] 2023; and
- (3) Reprocess Petitioner's Food Replacement Affidavit dated March 6, 2023, subject to the finding that Petitioner was a FAP benefit recipient as of March 6, 2023.

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

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-17-hearings
E. Holzhausen
J. Mclaughlin
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

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