



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
MI [REDACTED]

Date Mailed: October 13, 2023
MOAHR Docket No.: 23-005359
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 October 9, 2023. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Raven Douthart, Hearings Facilitator.

ISSUES

Did MDHHS properly deny Petitioner's application for food replacement benefits as untimely?

Did MDHHS properly deny Petitioner's State Emergency Relief (SER) application?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner is an ongoing recipient of the Food Assistance Program (FAP).
2. On [REDACTED] 2023, Petitioner applied for SER for assistance in paying her DTE electricity bill (Exhibit A, pp. 7-14).
3. On August 16, 2023, MDHHS issued a SER Verification Checklist (VCL) to Petitioner, requesting that she submit verification of her employment and income by August 23, 2023 (Exhibit A, pp. 15-16).
4. On [REDACTED] 2023, Petitioner applied for food replacement benefits following a power outage from July 26, 2023 through August 2, 2023, submitting the required Food Replacement Affidavit (Exhibit A, pp. 29-30).

5. On August 16, 2023, Petitioner submitted a letter to MDHHS from DTE verifying her storm-related electric power outage from July 26, 2023 through August 2, 2023 (Exhibit A, p. 30).
6. On August 28, 2023, MDHHS issued a SER Decision Notice to Petitioner, informing her that her application was denied for failure to return verification of her income (Exhibit A, pp. 17-19).
7. On August 29, 2023, MDHHS received verification of Petitioner's employment and income to MDHHS (Exhibit A, pp. 20-28).
8. On August 29, 2023, MDHHS issued a Quick Note to Petitioner, informing her that her application for food replacement was denied due to submitting the Food Replacement Affidavit late (Exhibit A, p. 31).
9. On August 29, 2023, MDHHS received a request from Petitioner for a hearing disputing the denial of her Food Replacement Application and denial of her SER application (Exhibit A, pp. 3-4)

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).

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.

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 this case, Petitioner disputes the denial of her food replacement benefits application for being untimely and denial of her SER application for failure to timely submit verifications of income. FAP recipients may be issued a replacement of FAP benefits when food purchased with FAP benefits has been destroyed in a domestic misfortune or disaster and reported timely. BAM 502 (January 2022), p. 1. Replacements and reauthorizations are processed only if the client reports the loss timely. Timely means within 10 days if the loss is due to domestic misfortune or disaster. BAM 502, p. 1.

In this case, since Petitioner's power was restored on August 2, she was required to submit her food replacement application by August 12. Petitioner's completed application was submitted on [REDACTED] 2023, including a letter from DTE verifying her storm-related electric power outage from July 26, 2023 through August 2, 2023. Petitioner testified that she has continued issues with timely receiving her mail because she had to arrange for her mail to be forwarded after she moved to a new address. The mail forwarding process causes for a delay in Petitioner receiving any correspondence. Petitioner testified that as soon as she received the DTE letter in the mail, she submitted it to MDHHS with her application. Petitioner testified that she did not submit an application prior to then because she thought that it would not be processed without the letter from DTE verifying her power outage. It is noted that the DTE letter was dated August 14, 2023. Therefore, if Petitioner received the letter within two days, her mail is not overly delayed. Since policy expressly states that food replacements are only able to be processed if the client reports the loss within 10 days, and Petitioner submitted her application 14 days after her power was restored, Petitioner's application was not timely. Therefore, MDHHS acted in accordance with policy in denying Petitioner's food replacement application since it was not timely submitted.

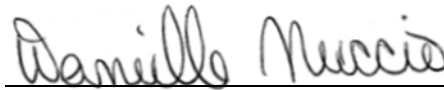
On [REDACTED] 2023, Petitioner applied for SER for assistance in paying her DTE electricity bill. On August 16, 2023, MDHHS issued a SER VCL to Petitioner, requesting that she submit verification of her employment and income by August 23, 2023. MDHHS is required to complete a budget for each SER application, calculating payments, income, client contributions, etc. to determine eligibility. ERM 103 (October 2022), p. 3. Clients must be informed of all verifications that are required and where to return verifications. The due date is eight calendar days, which begins on the date the SER VCL is generated. The client must make a reasonable effort to obtain required verifications. The specialist must assist if the applicant needs and requests help. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, use the best available information. If no evidence is available, the specialist must use their best judgment. Verifications are considered timely if received by the date they are due. For electronically transmitted verifications (fax, email or MI Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered received the next business day. ERM 103, p. 6. In this case, the VCL was generated on August 16, therefore the due date for verifications should have been August 24. As discussed, Petitioner has ongoing issues in timely receiving mail. Petitioner testified that she did not receive the VCL until August 28, after business hours. Petitioner then submitted the verification of her income on August 29 by dropping off the documents directly at the MDHHS local office. Since policy expressly states that MDHHS must review verifications within eight days from the VCL being issued, and Petitioner submitted verifications thirteen days after, MDHHS acted in accordance with policy in denying Petitioner's SER application for failure to timely return verifications.

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 policy when it denied Petitioner's food replacement application as untimely and in denying Petitioner's SER application for failure to timely return verification of income.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



DN/mp

Danielle Nuccio
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 :

Interested Parties

MDHHS-Wayne-18-Hearings

E. Holzhausen

J. McLaughlin

D. Sweeney

M. Holden

MOAHR

BSC4

Via-First Class Mail :

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