



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



Date Mailed: October 6, 2023
MOAHR Docket No.: 23-004998
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 2, 2023. Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Dana Draper-Swan, Assistant Payments Worker.

ISSUES

1. Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case?
2. Did MDHHS properly deny Petitioner's State Emergency Relief (SER) application for failure to submit verification of a court-ordered eviction?

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 was an ongoing recipient of FAP benefits for a group size of three, consisting of her two minor children and herself.
2. On July 7, 2023, Petitioner timely submitted a redetermination of FAP benefits to MDHHS.
3. On [REDACTED] 2023, Petitioner submitted a SER application for assistance with relocation.
4. On August 11, 2023, MDHHS issued a Notice of Case Action to Petitioner informing her that her FAP case was closed because her net income exceeds the

eligibility limit and verification of earned income was not submitted by Petitioner to MDHHS (Exhibit A, pp. 7-8).

5. On August 21, 2023, MDHHS received Petitioner's timely submitted hearing request disputing the closure of her FAP case, closure of her MA case, and denial of her SER (Exhibit A, pp. 3-5).
6. On August 28, 2023, MDHHS issued an Appointment Notice to Petitioner informing her that she has an application interview via telephone scheduled for September 5, 2023 (Exhibit A, p. 9).

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).

In her request for a hearing, Petitioner disputed that her son was denied MA coverage. During the hearing, Petitioner testified that since her MA case is active for all three group members, she no longer has a dispute regarding her MA case. Therefore, the MA hearing request will be dismissed.

Food Assistance Program (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.

Petitioner disputes the closure of her FAP cases. MDHHS testified that Petitioner's redetermination was timely submitted on July 7, 2023. MDHHS testified that Petitioner's FAP case closed automatically, effective September 1, 2023, for failure to complete the redetermination interview. However, the Notice of Case Action issued on August 11, 2023, states that Petitioner's FAP case was closed due to her net income exceeding the limit for eligibility and for failure to return verification of earned income. Since MDHHS was unclear at the hearing as to the reason for Petitioner's FAP case closure, all speculations for closure will be reviewed.

MDHHS must periodically redetermine or renew an individual's eligibility for active programs. The redetermination/renewal process includes thorough review of all eligibility factors. Redetermination, renewal, semi-annual and mid-certification forms are used to redetermine eligibility of active programs. Benefits stop at the end of the benefit period unless a redetermination is completed, and a new benefit period is certified. BAM

210 (October 2022), p. 1. Bridges generates a redetermination packet to the client on the fourth day of the month before the redetermination is due. If the fourth day occurs on a holiday or on a Sunday, then the packet is sent on the next business day. This allows time to process the redetermination before the end of the redetermination month. The FAP redetermination must be completed by the end of the current benefit period so that the client can receive uninterrupted benefits by the normal issuance date. MDHHS will issue a payment for lost benefits if the client is not at fault for delayed processing that prevented participation in the first month. BAM 210, p. 20.

In this case, MDHHS acknowledged that Petitioner timely submitted her redetermination of FAP benefits to MDHHS on July 7, 2023. MDHHS testified that on August 28, 2023, MDHHS issued a Verification Checklist (VCL) to Petitioner, requesting that she submit verification necessary to process her SER application, as well as verification of her unearned income. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (January 2022), p. 1. MDHHS must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the local office must assist if they need and request help. If neither the client nor the local office can obtain verification despite a reasonable effort, use the best available information. BAM 130, p. 3. For FAP cases, MDHHS must allow the client 10 calendar days to provide the verification that is requested. The requested verifications in Petitioner's case were due on September 7, 2023. This VCL was not issued within the standard of promptness required by policy to prevent loss of benefits. Therefore, MDHHS did not act in accordance with policy in processing Petitioner's FAP redetermination.

Additionally, the VCL was not presented as evidence for review, but based on MDHHS' testimony, verification of earned income was not requested. However, MDHHS then cited "failure to return verification of earned income" as a basis for closing Petitioner's FAP case. Petitioner testified that she had submitted verification to MDHHS that her employment ended, and she no longer had earned income, but MDHHS continued to include earned income in her budget. Upon review of the Notice of Case Action, MDHHS did include earned income in Petitioner's FAP budget, then closed Petitioner's FAP case due to excess income. The cited reasons for case closure in the Notice of Case Action are contradictory. MDHHS did not have an explanation and did not provide insight as to the actual reason for FAP case closure. Therefore, MDHHS failed to satisfy its burden that it acted in accordance with policy in closing Petitioner's FAP case.

MDHHS testified that Petitioner's redetermination was not processed because Petitioner failed to complete the redetermination interview. For FAP cases, an interview is required before denying a redetermination. BAM 210, p. 5. In Petitioner's case, MDHHS issued an Appointment Notice regarding Petitioner's redetermination interview on August 28, 2023. The interview was scheduled for September 5, 2023. MDHHS testified that a caseworker did not call, or attempt to call, Petitioner for the scheduled interview appointment. MDHHS had no explanation for failing to call Petitioner for her interview. Additionally, MDHHS had no explanation for why Petitioner's interview was scheduled to occur after the certification period ended on September 1, 2023. Therefore, MDHHS

did not act in accordance with policy in closing Petitioner's FAP case for failure to complete the redetermination interview.

State Emergency Relief (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.

Petitioner applied for SER for assistance with relocation. MDHHS testified that Petitioner's SER application was denied for Petitioner's failure to provide proof of a court summons, order, or judgment.

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2020), p. 1. In order to be eligible for relocation services, the individual must be homeless or at risk of homelessness. Persons at imminent risk of homelessness must provide a court summons, order or judgment resulting from an eviction action. ERM 303, pp. 2-3. Additionally, MDHHS must verify the group shelter payments for the past six months. If required payments have not been made, MDHHS will determine whether the SER group had good cause for non-payment of their shelter obligation during the last six months, regardless of the reason they are in need. ERM 303, p. 4. 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 Verification Checklist is generated. ERM 103 (October 2021), pp. 5-6 (Emphasis added).

Relocation services may only be authorized if the following circumstances exist, and all other SER criteria met:

- The SER group is homeless, meaning that there is no housing for the group to return to.
- The SER group is at risk of homelessness. Persons at imminent risk of homelessness must provide a court summons, order or judgment resulting from an eviction action.
- The SER group meets the eligibility requirements for a homeless assistance program.

ERM 303, pp. 1-3.

MDHHS must verify documentation of need that the SER group is eligible for relocation services. A MDHHS services worker or MDHHS specialist, with supervisory approval, must determine the family must be relocated from unsafe housing for the protection of the children. ERM 303, p. 3. MDHHS must verify that the current rental unit is unsafe structurally or is otherwise a threat to the health and safety of the family. ERM 303, p. 6. In this case, MDHHS conceded that no VCL was ever issued to request a court-order eviction prior to denying Petitioner's SER application. Petitioner credibly testified that she lived with her two minor children in a house that threatened their health and safety,

including frequent power outages and no hot water. Petitioner and her children are now moving between different relative's houses and are unable to afford to move to a new home of their own. Petitioner is at risk of homelessness due to the unsafe housing that her children lived in and no current house to safely reside in. Petitioner seeks SER relocation assistance to move her family to safe housing. MDHHS denied Petitioner's SER application, stating that she did not provide proof of a court summons, order or judgment resulting from an eviction action. However, no evidence was presented that MDHHS evaluated whether Petitioner's current rental unit is unsafe structurally or is otherwise a threat to the health and safety of the family, for the protection of the children. MDHHS is required to evaluate whether Petitioner meets any criteria, as discussed, to receive SER, not just whether she is facing eviction action. Therefore, MDHHS has not acted in accordance with Department policy when it denied 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 closed Petitioner's FAP case and did not act in accordance with Department policy when it denied Petitioner's SER application.

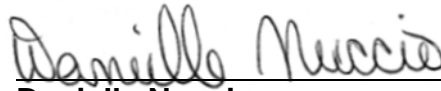
DECISION AND ORDER

Accordingly, the Department's decision is **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. Reinstate Petitioner's FAP case as of September 1, 2023;
2. Begin recalculating the FAP budget for September 1, 2023 ongoing;
3. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from September 1, 2023 ongoing;
4. Reregister Petitioner's [REDACTED] 2023 SER application;
5. Reprocess the application for August 2, 2023 ongoing;
6. If Petitioner is eligible for benefits, issue supplements to Petitioner for any SER benefits she was eligible to receive but did not from August 2, 2023 ongoing;
7. Notify Petitioner of its decision in writing.

Petitioner's hearing request for MA is **DISMISSED**.



Danielle Nuccio
Administrative Law Judge

DN/mp

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-15-Greydale-Hearings
E. Holzhausen
J. Mclaughlin
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
MI [REDACTED]