



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: June 5, 2024
MOAHR Docket No.: 24-003687
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 May 8, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor.

ISSUE

Did the Department properly process Petitioner's rent increase change report regarding her Food Assistance Program (FAP) benefit amount?

Did the Department properly process Petitioner's Family Independence Program (FIP) and 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 was an ongoing recipient of FAP benefits.
2. Petitioner is a simplified change reporter with a group size of three. (Exhibit A, pp. 7, 9).
3. On [REDACTED] 2023, Petitioner completed an application for FIP and SER. (Exhibit A, pp. 25-32). On June 1, 2023, the Department issued a Notice of Case Action (NOCA) informing Petitioner that her request for FIP was denied due to the group's countable earnings exceeding the income limit for the program. (Exhibit A, pp. 35-38).

4. On [REDACTED] 2023, Petitioner submitted a FAP renewal application to the Department. (Exhibit A, 13). Petitioner noted changes to her cell phone number only.
5. On January 14, 2024, Petitioner reported a change in her rent amount to the Department. Petitioner reported that her rent amount increased to \$1,010 per month.
6. On February 29, 2024, the Department issued Petitioner a NOC informing her that effective April 1, 2024, her FAP benefits would increase to \$766 a month. (Exhibit A, pp. 13-22). The budget included with the NOC identified Petitioner's increased rent amount. (Exhibit A, p. 19).
7. On [REDACTED] 2024, the Department received a request for hearing from Petitioner disputing the Department's actions concerning FAP, FIP and SER. (Exhibit A, pp. 3-5, 12).

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 this case, Petitioner requested a hearing disputing the Department's failure to process her change notice concerning her increase rent amount beginning in February 2024. At the hearing, the Department acknowledged that Petitioner reported her increase rent amount on January 14, 2024, and this reported change was not processed by the Department until February 2024 and increased her FAP starting April 2024.

Changes may be reported in person, by mail, or by telephone. BAM 105 (October 2023), p. 11). The Department must act on a change reported by means other than a tape match within 10 days of becoming aware of the change. BAM 220 (November 2023), p. 7. For non-income changes, the Department must complete the FAP eligibility determination and required case actions in time to affect the benefit month that occurs 10 days after the change is reported. BAM 220 (November 2023), p. 10.

Here, because Petitioner reported her rent increase change on January 14, 2024, and this change would increase the household's monthly allotment, the household allotment should have been increased starting in the month of February, which is the first allotment within 10 days of the reported change. BAM 220, p. 10. Therefore, the Department erred when it did not update Petitioner's rent increase timely to reflect her budgets for February 2024 and March 2024.

FIP and SER Application

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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 pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

Regarding her FIP and SER dispute, Petitioner requested a hearing disputing the Department's failure to process her application for FIP and SER benefits. The Department testified that the only FIP/SER application it received from Petitioner was in May 2023, in which it sent Petitioner a June 1, 2023 denial notice informing her that she had income that was over the income limit for FIP eligibility. (Exhibit A, pp. 35-38).

A client's request for hearing must be received by the Department within 90 days of the date of the written negative action notice. Michigan Administrative Code, Rule 400.904(4), and BAM 600 (March 2021), p. 6. Because Petitioner's March 7, 2024 hearing request regarding FIP was received more than 90 days after the June 1, 2023 NOCA denying the [REDACTED] 2023 FIP application, it is untimely and must be dismissed for lack of jurisdiction.

At the hearing, Petitioner testified that she submitted a new FIP/SER application on [REDACTED] 2024, [REDACTED] she requested this hearing. Petitioner's hearing request completed [REDACTED] 2024 notes that she "applied for cash [assistance] and still no answer" and that she had applied for SER almost [REDACTED] ago without response (Exhibit A, pp. 12). The Department denied having any FIP or SER application from Petitioner other than the [REDACTED] 2023 application, and Petitioner failed to present sufficient evidence to establish that she had applied for FIP or SER since then.

Although the Department provided a copy of the June 1, 2023 Notice of Case Action it only denied the FIP application, no other evidence was provided by the Department showing a determination was provided for the [REDACTED] 2023 SER application.

As it relates to the SER application, because the Department failed to provide a SER Decision Notice evidencing that the [REDACTED] 2023 SER application was processed, the

Department did not satisfy its burden of showing that it acted in accordance with Department policy in processing the [REDACTED] 2023 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 did not timely process Petitioner's reported rent increase change to affect FAP and it failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to process Petitioner's May 2023 SER's application.

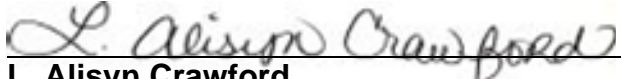
DECISION AND ORDER

Petitioner's hearing request concerning FIP is **DISMISSED**. The Department's FAP and SER 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. Recalculate Petitioner's FAP budget to incorporate her rent increase beginning February 1, 2024 ongoing;
2. If eligible, issue supplements to Petitioner for FAP benefits she was eligible to receive by did not from February 1, 2024 ongoing;
3. Process Petitioner's [REDACTED] 2023 SER application; and,
4. Notify Petitioner of its decisions in writing.

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:

DHHS

Yaita Turner

Oakland County Southfield District III

25620 W. 8 Mile Rd

Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4

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B Cabanaw

N Denson-Sogbaka

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MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
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