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GOVERNOR

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

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DIRECTOR

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Date Mailed: September 20, 2024
MOAHR Docket No.: 24-007249
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 on September 11, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Corlette Brown, hearings facilitator, and Staci Sanders, specialist. Nkechi Okafor of Bromberg and Associates participated as an Ibo-English translator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER).

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 ██████████ 2024, Petitioner applied for SER for the home ownership services of furnace repair, home repairs, property taxes, and property insurance. Petitioner also sought assistance with heat, electricity, and cooking gas expenses
2. As of ██████████ 2024, Petitioner reported to MDHHS having no income and an unspecified obligation for property taxes.
3. On April 26, 2024, MDHHS mailed Petitioner a Verification Checklist requesting documentation verifying shut-off threats to utilities.
4. As of May 6, 2024, Petitioner failed to verify shut-off threats to utilities.

5. On May 6, 2024, MDHHS sent Petitioner notice denying SER home ownership services due to Petitioner's housing being unaffordable.
6. On May 6, 2024, MDHHS sent notice stating nothing concerning Petitioner's requests for electricity and heat.
7. On May 6, 2024, MDHHS sent Petitioner notice denying SER for cooking fuel due to a copayment, shortfall, or contribution exceeding the need.
8. On June 17, 2024, Petitioner requested a hearing to dispute the denial of SER. Petitioner also disputed FAP and MA eligibility.
9. As of June 2024, Petitioner received ongoing FAP benefits since at least April 25, 2024.
10. As of June 2024, Petitioner received ongoing MA benefits.

CONCLUSIONS OF LAW

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's hearing request cited a dispute over "denied FAP" and "FAP emergency relief" stemming from a "redetermination application" dated [REDACTED] 2023. Exhibit A, pp. 3-5.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) that an opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to consider the recipient's choice of service.¹

As of the hearing date, it was not disputed that Petitioner received \$ [REDACTED] monthly for a benefit group of one person since April 25, 2024.² Exhibit A, p. 22. Petitioner's FAP eligibility was the maximum FAP benefit issuance possible. RFT 260 (October 2023) p. 1. Thus, it was not clear why Petitioner would dispute FAP eligibility. During the hearing, Petitioner thought he was being asked too many questions and would not elaborate on

¹ MDHHS incorporated the same in its policy. BAM 600 (February 2024) p. 5.

² Petitioner's FAP eligibility was prorated for April 2024.

why he disputed FAP eligibility. Given the evidence, Petitioner's hearing dispute over FAP benefits was either favorably resolved and/or failed to meet the requirements for administrative hearing jurisdiction (see BAM 600). In either case, Petitioner's request is aptly dismissed.

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA policies are contained in the BAM, BEM, and RFT.

Petitioner's hearing request also claimed that MDHHS "[d]enied redetermination for medical" and "denied approved-qualified medical benefits". Exhibit A, pp. 3-5. It was not disputed that Petitioner received ongoing Medicaid benefits; thus, it was not clear why Petitioner requested a hearing disputing MA eligibility. Again, during the hearing, Petitioner did not elaborate on the dispute because he thought he was being asked too many questions. Given the evidence, Petitioner's hearing dispute over MA benefits was either favorably resolved and/or failed to meet the requirements for administrative hearing jurisdiction. Concerning MA benefits, Petitioner's hearing request will also be dismissed.

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and Emergency Relief Manual (ERM).

Petitioner lastly requested a hearing to dispute SER eligibility. Exhibit A, pp. 3-5. Petitioner applied for SER on [REDACTED] 2024 and checked a need for seven different SER services. Exhibit A, pp. 25-34. Four of the services concerned home ownership: furnace repair, home repairs, property taxes, and property insurance. A State Emergency Relief Decision Notice dated May 6, 2024, stated that Petitioner was denied home ownership services due to unaffordable housing. Exhibit A, pp. 38-40.

Home ownership and repair services includes the following: house payments, property taxes, lot rent, required housing insurance, furnace repairs, and non-energy home repairs. ERM 304 (October 2021) p. 1. Housing affordability is a condition of SER eligibility for home ownership and repair services. ERM 207 (October 2020) p. 1. MDHHS is to authorize SER payment for home repairs and ownership services only if the SER group has sufficient income to meet ongoing housing expenses. *Id.* An SER group that cannot afford to pay ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. *Id.* MDHHS is to deny SER if the group does not have sufficient income to meet their total housing obligation. The

total housing obligation cannot exceed 75 percent of the group's total net countable income.³

Petitioner's SER application reported having \$0 income. Exhibit A, p. 28. It can be reasonably inferred that Petitioner had some amount of housing obligation based on his SER requests for property taxes and insurance. With \$0 income, there is no scenario whereby Petitioner's housing was affordable. Thus, MDHHS properly denied SER-home ownership and repair services to Petitioner due to unaffordable housing.

Petitioner also requested SER for heat and electricity. Heat and electricity fall under SER- Energy services. ERM 301 (January 2024) p. 1. The SER denial notice was silent concerning SER- Energy. MDHHS contended that Petitioner was properly denied SER-Energy because of a failure to verify a shut-off threat.⁴ Exhibit A, p. 1.

MDHHS is to inform all SER applicants in writing of the decision made on their application. ERM 103 (October 2023) p. 4. MDHHS is to mail or give the State Emergency Relief Decision Notice (DHS-1419) to the applicant. *Id.*

MDHHS's contention that Petitioner can be denied SER services for a reason not stated on the denial notice was not persuasive. In fact, MDHHS did not notify Petitioner of any SER- Energy decision on the A State Emergency Relief Decision Notice dated May 6, 2024.⁵ Because MDHHS failed to give proper notice of SER-Energy denial, MDHHS will be ordered to reprocess Petitioner's SER request for energy services.⁶

Petitioner also sought SER for cooking fuel. Cooking fuel falls under SER-Utility services (see ERM 302).. The denial notice stated that Petitioner was denied help with utilities due to an income copayment, asset copayment, shortfall, and/or contribution exceeding the need for the service. Exhibit A, pp. 38-40. As with SER-Energy, MDHHS testified that Petitioner's failure to verify was the proper reason for denial. As it was found above, MDHHS must provide an applicant with proper written notice of denial. Because written notice stated a copayment, shortfall, or contribution exceeded the amount needed, this will be accepted as the basis for denying assistance for cooking fuel.

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (October 2023) p. 1. MDHHS is to not authorize a SER payment unless it will resolve the emergency. *Id.* A budget considering a client's income, assets, past payments, and SER amount needed is to be performed. *Id.* If the combined copayment, shortfall, and/or contribution exceeds the amount needed for

³ The multiplier of 75% increases for renters with utilities included in the rental obligation.

⁴ MDHHS presented a Verification Checklist dated April 26, 2024, requesting proof of a shut-off threat for heat and electricity. Exhibit A, pp. 35-36.

⁵ The notice addressed SER- Utilities but not SER-Energy. Each are separate forms of SER assistance.

⁶ Petitioner should be aware that this does not guarantee assistance with SER; it only guarantees that a proper determination, possibly a denial, should be made.

SER, the application shall be denied unless good cause is granted. ERM 103 (October 2023) p. 5.

MDHHS provided no evidence that Petitioner's SER request for cooking fuel was properly denied due to copayment, shortfall, or client contribution exceeding the SER need. Thus, it is found that MDHHS improperly denied Petitioner's SER request for cooking fuel. As a remedy, Petitioner is entitled to a reprocessing of eligibility.

During the hearing, Petitioner expressed additional general concerns. Petitioner presented mail listing Petitioner's current address and a third party. Exhibit A, pp. 6-10. Petitioner's hearing request expressed a concern that the third party was enslaved in Petitioner's home country, that MDHHS committed perjury to "rapture" the individual, and that the made threats against Petitioner. Petitioner's allegations were wholly unrelated and/or unsubstantiated to any actions by MDHHS.

Petitioner also emphasized that documents submitted to MDHHS included date stamps from MDHHS on different locations on the page. For example, one stamp was in the lower right corner (Exhibit A, p. 14) while another document was stamped closer to the middle of the page (Exhibit A, p. 17).⁷ No explanation was provided as to why a date stamp placement was relevant to Petitioner's disputes.

Petitioner also claimed that FAP benefits were stolen in 2021. This claim was not considered because it was not included within Petitioner's hearing request. There is no administrative hearing jurisdiction for disputes not raised within the hearing request due to the lack of notice given to MDHHS. If Petitioner chooses to pursue the mater further, Petitioner can raise the dispute within a future hearing request.

⁷ Petitioner also accused MDHHS of improperly removing documents form the hearing packet. Petitioner's accusation was odd because the documents he claimed were removed were received by the undersigned. Furthermore, Petitioner's testimony was not credible because he seemed to claim the documents were removed from his copy of the hearing packet while earlier contending that he did not receive a hearing packet.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner failed to establish a dispute concerning FAP and MA benefits. Concerning FAP and MA eligibility, 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 application dated April 24, 2024, concerning furnace repair, home repair, property taxes, and insurance. Concerning SER for the home ownership services of furnace repair, home repair, property taxes, and insurance, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER application concerning energy services and cooking fuel. It is ordered that MDHHS commence the following actions within 10 days of the mailing date of this decision:

- (1) Reregister and reprocess Petitioner's SER application dated [REDACTED], 2024 concerning energy and cooking fuel and reprocess subject to the finding that MDHHS failed to issue proper notice of denial; and
- (2) Issue notice and supplements, if any, in accordance with policy.

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

CG/pt



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**
Keisha Koger-Roper
Wayne-District 31 (Grandmont)
17455 Grand River
Detroit, MI 48227
MDHHS-Wayne-31-Grandmont-Hearings@Michigan.gov

Interested Parties
BSC4
J. McLaughlin
E. Holzhausen
MOAHR

Via-First Class Mail: **Petitioner**
[REDACTED]
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