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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: November 18, 2022  
MOAHR Docket No.: 22-004519  
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 November 16, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) did not participate despite being given at least 15 minutes from the scheduled hearing time to call.

**ISSUES**

The first issue is whether MDHHS properly denied Petitioner's application for Food Assistance Program (FAP) benefits.

The second 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 ██████████, 2022, Petitioner applied for FAP benefits and reported a household that included two daughters and three sons.
2. On ██████████ 2022, MDHHS determined Petitioner to be ineligible for FAP benefits due to an unknown amount of excess income.
3. On an unspecified date, Petitioner applied for SER-Energy.

4. On September 9, 2022, MDHHS sent Petitioner an SER-Verification Checklist requesting proof of continued employment income for two household members and proof of stopped income for two household members. The due date to return verification was September 16, 2022.
5. On an unspecified date before September 16, 2022, Petitioner submitted income verification to MDHHS for all household members with income.
6. On various dates before September 16, 2022, Petitioner called MDHHS to report how MDHHS could verify stopped employment income for household members. Petitioner was unable to report because no one answered, and she was unable to leave a voicemail.
7. On [REDACTED] 2022, MDHHS denied Petitioner's SER application due to an alleged failure to verify employment income.
8. On October 6, 2022, Petitioner requested a hearing to dispute the denial of SER and FAP 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 BAM, BEM, and RFT.

Petitioner requested a hearing, in part, to dispute a denial of FAP benefits. Petitioner testified she applied for FAP benefits on [REDACTED] 2022.<sup>1</sup> A Notice of Case Action dated [REDACTED] 2022 stated that Petitioner was denied due to an unspecified amount of excess income.

BEM 556 outlines the factors and calculations required to determine a client's income for FAP eligibility. FAP eligibility factors group size, countable monthly income, and relevant monthly expenses.

MDHHS did not participate in the hearing. MDHHS also did not present evidence in its hearing packet stating how much income was calculated for Petitioner's benefit group or each household member. Furthermore, the MDHHS denial notice indicated that only three persons were factored in the determination while Petitioner testified that she had a five-person household.

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<sup>1</sup> MDHHS's summary indicated the same date; however, the denial notice indicated an application date of [REDACTED] 2022.

Without evidence that MDHHS properly calculated Petitioner's group size or income, it cannot be stated that MDHHS properly calculated Petitioner's group size or income. Thus, MDHHS failed to establish that it properly denied Petitioner's FAP eligibility. As a remedy, MDHHS will be ordered to reprocess Petitioner's FAP application.

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 Emergency Relief Manual (ERM).

Petitioner also requested a hearing to dispute the denial of an SER application requesting energy bill assistance. MDHHS's hearing packet did not indicate the date of application.<sup>2</sup> A State Emergency Relief Decision Notice dated [REDACTED] 2022, stated that Petitioner's application was denied due to a failure to verify employment income.

MDHHS is to use the SER Verification Checklist to request verification and to notify the client of the due date for returning the verifications. ERM 103 (March 2019) p. 3. The due date to return verifications is at least eight calendar days from the date of SER-VCL mailing. *Id.*, p. 6. MDHHS is to deny the SER application if the group fails to cooperate in returning verification. *Id.* p. 5.

On September 9, 2022, MDHHS sent Petitioner an SER-Verification Checklist requesting proof of continued employment income for two household members and proof of stopped income for two household members. Petitioner's due date to return verification was September 16, 2022.

As discussed in the FAP analysis, MDHHS failed to participate in the hearing. Thus, MDHHS failed to present evidence of which income within Petitioner's household went unverified. Without such evidence, a denial of SER based on a failure to verify cannot be upheld.

Furthermore, Petitioner credibly testified that she tried to report income information but her calls to MDHHS went unanswered and no voicemail could be left. Petitioner additionally testified that she sent MDHHS an email in which verification for stopped income could be verified. As MDHHS did not participate in the hearing, Petitioner's testimony was unrebutted.

Given the evidence, MDHHS failed to establish that Petitioner's SER application was properly denied. Thus, MDHHS will be ordered to reregister and process Petitioner's SER application for energy services.

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<sup>2</sup> MDHHS's summary indicated a processing of the application on [REDACTED] 2022, thereby suggesting an application date in the prior few days. Petitioner testified that MDHHS processed her application only after delaying for several weeks or months.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS failed to establish that Petitioner's SER and FAP applications were properly denied. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister and reprocess Petitioner's application for FAP benefits dated [REDACTED] 2022;
- (2) Reregister and reprocess Petitioner's SER application requesting energy services; and
- (3) Issue notice and benefit supplements, if any, in accordance with policy.

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

CG/mp



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**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-57-Hearings  
E. Holzhausen  
D. Sweeney  
K. Schulze  
M. Holden  
MOAHR  
BSC4

**Via-First Class Mail :**

**Petitioner**  
[REDACTED] [REDACTED]  
[REDACTED] [REDACTED]  
[REDACTED] MI [REDACTED]