



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: December 2, 2022
MOAHR Docket No.: 22-004955
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 November 23, 2022, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Ashley Evans, Assistance Payments (AP) Supervisor.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-18.

ISSUE

Did the Department properly deny Petitioner's applications for State Emergency Relief (SER) and Food Assistance Program (FAP) benefits?

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 [REDACTED] 2022, Petitioner applied for FAP. (AP Supervisor Testimony)
2. On October 6, 2022, a Notice of Case Action was issued to Petitioner denying FAP based on excess income. (Exhibit A, pp. 6-10)
3. On [REDACTED] 2022, Petitioner applied for SER. (AP Supervisor Testimony)
4. On October 6, 2022, a SER Decision Notice was issued to Petitioner denying SER based on income being higher than the maximum amount allowed for this program. (Exhibit A, pp. 14-16)

5. On October 18, 2022, Petitioner requested a hearing contesting the Department's determination. (Exhibit A, pp. 4-5)

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.

For FAP, a non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. In calculating the FAP budget, the entire amount of earned and unearned countable income is budgeted. Gross countable earned income is reduced by a 20 percent earned income deduction. Every case is allowed the standard deduction shown in RFT 255. BEM 550, January 1, 2022, p. 1. For a group size of three, the FAP standard deduction is \$193.00. RFT 255, October 1, 2022, p. 1. For a group size of three, the FAP gross income limit was \$2,495.00 and the net income limit was \$1,920.00. RFT 250, October 1, 2022, p. 1.

For FAP the Department considers child support expenses as well as dependent care expenses. Verification is required for both child support and dependent care expenses. BEM 554, October 1, 2022, pp. 6-8. A shelter expense is allowed when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, (October 1, 2022), p. 13. Heat and utility expenses can also be included as allowed by policy. FAP groups that qualify for the heat/utility (h/u) standard do not receive any other individual utility standards. BEM 554, p. 16.

Regarding income eligibility for SER, there are no income copayments for SER energy and water/sewer services. With respect to income, clients are either eligible or they are not. For a group to be eligible for energy and water/sewer services, the combined monthly income that is received or expected to be received by all group members in the 30-day countable income period, cannot exceed the standard for SER energy/LIHEAP and water/sewer services for the number of group members. If the income exceeds the

limit, the request must be denied; see SER Income Need Standards for Energy/LIHEAP and Water/Sewer Services in this item. ERM 208, October 1, 2022, p. 1. For a family size of 4, the income limit for energy and water/sewer services is 150% of the federal poverty level, which was \$3,468.00 effective October 1, 2022. ERM 208, p. 6 The Department is to verify and budget all non-excluded gross income the SER group expects to receive during the countable income period. (ERM 206, November 1, 2019, p. 1) This includes earnings from work as an employee (wages, salary, college work-study, commissions, tips). ERM 206, p. 2.

In this case, Petitioner's FAP group size was three and the SER group size was four. The AP Supervisor explained that one child was not included in the FAP group because that child is not in Petitioner's home full time and is active on another FAP case. (AP Supervisor Testimony)

The AP Supervisor testified that the paycheck stubs the Department utilized to determine income eligibility were from the end of June and beginning of July. (AP Supervisor Testimony) Petitioner asserted that the Department should have utilized more recent paychecks for determining her income eligibility in October. Petitioner has had a lot of time off work due to not having a car, having COVID, and now she is on maternity leave. (Petitioner Testimony) The AP Supervisor explained that the Department requested current paycheck stubs from Petitioner when processing these applications, but the electronic case record does not show that any more recent paycheck stubs were submitted. (AP Supervisor Testimony) Petitioner testified that she emailed paycheck stubs to her caseworker on October 5, 2022. Petitioner indicated the caseworker had told her to upload verifications to her MiBridges account. Petitioner asserted that she was uploading them to MiBridges as well as emailing them to the caseworker. Petitioner noted her caseworker was frequently off on leave. (Petitioner Testimony) The AP Supervisor explained that if a worker is on leave, no one else can access their email. Accordingly, verifications should not be emailed to the caseworker. (AP Supervisor Testimony) The MI Bridges account shows that the last paycheck stubs Petitioner submitted were uploaded in August 2022 and those were the paycheck stubs the Department utilized from the end of June and beginning of July 2022. (Petitioner and AP Supervisor Testimony)

Petitioner disagreed with the deductions/expenses the Department considered. Petitioner noted she has expenses that the Department did not include, such as car insurance. Further, while Petitioner has been approved for childcare assistance benefits, she is still having to pay out of pocket because she is on waitlists for childcare providers that participate with that benefit program. However, Petitioner acknowledged that the family and friends she is paying out of pocket for childcare are not willing to provide any verification to the Department. (Petitioner Testimony) For FAP, the Department cannot consider childcare expenses that are not verified. The policy does not allow for additional expenses, such as car insurance, to be considered in the FAP budget. Further, the Department must utilize the h/u standard for utilities, rather than Petitioner's actual utility expenses.

Ultimately, the Department properly determined that Petitioner exceeded the applicable income limits for FAP and SER. The Department utilized the most recent paycheck stubs in the electronic case record to determine Petitioner's eligibility for FAP and SER. Based on those paychecks, the household's gross income was [REDACTED]. For FAP, after allowable verified expenses/deductions, the household net income was [REDACTED]. (Exhibit A, p. 17, AP Supervisor Testimony) The FAP gross income limit was \$2,495.00 and the net income limit was \$1,920.00. RFT 250, October 1, 2022, p. 1. Accordingly, Petitioner's household exceeded the applicable income limits for FAP. For SER, the policy directs that the Department only looks at the household's income, and does not allow for any expenses/deductions to be considered. The SER income limit for energy and water/sewer services is 150% of the federal poverty level, which was \$3,468.00 effective October 1, 2022. ERM 208, p. 6. Accordingly, Petitioner's household exceeded the applicable income limit for SER.


Petitioner indicated the household's current income is significantly less. Accordingly, Petitioner may wish to reapply and submit current income verification.

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 Department policy when it denied Petitioner's applications for State Emergency Relief (SER) and Food Assistance Program (FAP) benefits.

DECISION AND ORDER

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

CL/ml



Colleen Lack
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
Barbara Hamilton
Lenawee County DHS
1040 South Winter Street
Adrian, MI 49221
**MDHHS-Lenawee-
Hearings@michigan.gov**

Interested Parties

BSC4
M. Holden
D. Sweeney
K. Schulze
E. Holzhausen
MOAHR

Via First Class Mail :

Petitioner

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