



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  
ACTING DIRECTOR



Date Mailed: September 26, 2023  
MOAHR Docket No.: 23-004818  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm**

**HEARING DECISION**

On August 14, 2023, Petitioner, [REDACTED] requested a hearing to dispute the denial of her requests for Food Assistance Program (FAP) benefits and State Emergency Relief (SER) assistance. As a result, a hearing was scheduled to be held on September 20, 2023, pursuant to MCL 400.9, 7 CFR 273.15, and Mich Admin Code, R 792.11002. Petitioner appeared at the hearing and represented herself. Respondent, Department of Health and Human Services (Department) had Tatirah Glenn, Eligibility Specialist, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 23-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUES**

Did the Department properly deny Petitioner's application for FAP benefits?

Did the Department properly deny Petitioner's application for SER assistance?

**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 applied to receive FAP benefits and SER assistance from the Department.
2. Petitioner requested SER assistance to pay her electricity bill.

3. Petitioner has a household size of five, including Petitioner and her four children.
4. Petitioner is supposed to receive child support, but Petitioner generally does not receive any.
5. Petitioner is employed by [REDACTED] and Petitioner worked an average of 40 hours per week for [REDACTED] per hour prior to applying for FAP benefits and SER assistance. [REDACTED] paid Petitioner biweekly.
6. Petitioner's child, [REDACTED] was employed at [REDACTED] until the end of August. Petitioner estimates that he worked 25 hours per week for [REDACTED] per hour.
7. Petitioner pays \$800.00 per month on a land contract, and Petitioner is responsible for paying to heating/cooling utilities.
8. Petitioner paid the electricity bill that she requested SER assistance for.
9. In July 2023, the Department denied Petitioner's application for FAP benefits because the Department determined that Petitioner's household income exceeded the limit.
10. In July 2023, the Department denied Petitioner's application for SER assistance because the Department determined that it did not have sufficient proof of [REDACTED] income.

### **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).

### **FOOD ASSISTANCE**

The Food Assistance Program (FAP) 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 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 is disputing the Department's decision to deny her application for FAP benefits. The Department denied Petitioner's application for FAP benefits because the Department determined that Petitioner's household income exceeded the income limit.

For a client to be eligible for FAP benefits, the client's household income must not exceed the applicable monthly income limit by family size. RFT 250 (October 1, 2022),

p. 1. The applicable monthly income limit for a household without a senior, disabled, or veteran is the household's gross income. *Id.* The gross income limit for a household size of five was \$3,518.00. *Id.* Since Petitioner had a household size of five, \$3,518.00 was the applicable gross income limit for Petitioner's household.

To determine a client's countable income, the Department must use past income to prospect income for the future, unless changes are expected. BEM 505 (October 1, 2022), p. 6. In general, the Department uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.* If income from the past 30 days does not appear to accurately reflect what is expected to be received in the benefit month, and fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month, then the Department uses income from the past 60 or 90 days. *Id.*

Based on the evidence presented, Petitioner received total gross pay of [REDACTED] every two weeks. The biweekly pay is multiplied by 2.15 to calculate a standard monthly amount. *Id.* at p. 8. Petitioner's average biweekly pay of [REDACTED] multiplied by 2.15 equals a standard monthly amount of [REDACTED]. Thus, Petitioner's countable gross income was [REDACTED] per month.

Additionally, Petitioner's son, [REDACTED] received total gross pay of approximately [REDACTED] per week. The weekly pay is multiplied by 4.3 to calculate a standard monthly amount. *Id.* Petitioner's son's average weekly pay of [REDACTED] multiplied by 4.3 equals a standard monthly amount of [REDACTED]. Thus, Petitioner's son's countable gross income was [REDACTED] per month.

Petitioner's income of [REDACTED] plus Petitioner's son's income of [REDACTED] equals [REDACTED]. Thus, Petitioner's total gross household income was [REDACTED] per month. Petitioner's total gross household income exceeded the gross income limit for a household size of five because the income limit was \$3,518.00 per month, and Petitioner's gross household income was greater than \$3,518.00 per month. Therefore, the Department properly determined that Petitioner's gross household income exceeded the limit to be eligible for FAP benefits.

### **STATE EMERGENCY RELIEF**

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.

In this case, Petitioner is disputing the Department's decision to deny her application for SER assistance. Petitioner requested SER assistance to pay her electricity bill, and Petitioner has since paid her electricity bill.

SER is intended to help address essential needs in emergency situations. ERM 101 (March 1, 2013), p. 1. In order to be eligible to receive SER, an emergency must exist.

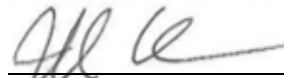
*Id.* Since Petitioner paid her electricity bill, Petitioner no longer has an emergency that requires assistance. Thus, whether the Department properly denied her application is now moot. Therefore, the Department's decision should be upheld.

**DECISION AND ORDER**

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 act in accordance with its policies and the applicable law when it denied Petitioner's applications for Food Assistance Program benefits and State Emergency Relief assistance.

IT IS ORDERED, the Department's decisions are **AFFIRMED**.

JK/ml



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**Jeffrey Kemm**  
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**  
Chelsea McCune  
Macomb County DHHS Warren Dist.  
13041 E 10 Mile  
Warren, MI 48089  
**MDHHS-Macomb-20-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Holden  
D Sweeney  
E Holzhausen  
J McLaughlin  
MOAHR

**Via First Class Mail:**

**Petitioner**

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