



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

[REDACTED]  
MI [REDACTED]

Date Mailed: September 26, 2023  
MOAHR Docket No.: 23-004959  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm**

### **HEARING DECISION**

On August 17, 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 21, 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 Valerie Foley, Hearing Facilitator, appear as its representative. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 28-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 has a household size of three, including Petitioner and her two children.

3. Petitioner is employed by the [REDACTED] and Petitioner worked an average of 40 hours per week for [REDACTED] per hour prior to applying for FAP benefits and SER assistance. The [REDACTED] paid Petitioner biweekly.
4. The [REDACTED] paid Petitioner the gross amount of [REDACTED] on August 4, 2023, and the [REDACTED] paid Petitioner the gross amount of [REDACTED] on July 14, 2023.
5. Petitioner received an average of [REDACTED] per month for child support.
6. Petitioner paid \$720.00 per month on a mortgage, Petitioner paid \$650.00 per month for lot rent, and Petitioner was responsible for paying to heating/cooling utilities.
7. In August 2023, the Department denied Petitioner's application for FAP benefits because the Department determined that Petitioner's household income exceeded the limit.
8. In August 2023, the Department denied Petitioner's application for SER assistance because the Department determined that Petitioner's household income exceeded the limit.
9. Petitioner requested a hearing to dispute the Department's decision to deny her requests for FAP benefits and SER assistance.

### **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 three was \$2,495.00. *Id.* Since Petitioner had a household size of three, \$2,495.00 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] for the two most recent biweekly pay periods prior to her application. Thus, Petitioner's average biweekly gross pay was [REDACTED]. 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.

Petitioner's total gross household income exceeded the gross income limit for a household size of three because the income limit was \$2,495.00 per month, and Petitioner's gross household income was greater than \$2,495.00 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 gas bill, mortgage, and electricity bill. The Department denied Petitioner's request because the Department determined that Petitioner's household income exceeded the limit.

A client is only eligible for SER if the client's countable household net income is less than or equal to the applicable need standard. ERM 208 (December 1, 2022), p. 1. For non-energy SER services, the applicable need standard for a household size of three was \$625.00, and for energy/water/sewer SER services, it was \$2,878.00. *Id.* at p. 6. Countable income is calculated by deducting allowable expenses from the gross amount received. ERM 206 (November 1, 2019), p. 5.

As stated in the section on Food Assistance above, Petitioner's gross monthly income from her employment was [REDACTED]. It is unclear how much Petitioner had withheld from her gross pay. However, 25% of gross pay is suggested as the amount to be used for withholding taxes. *Id.* at p. 5. Assuming Petitioner had 25% withheld from her gross pay, Petitioner's net income from her employment was [REDACTED]. Petitioner also received [REDACTED] per month for child support, so Petitioner's countable household net income was [REDACTED].

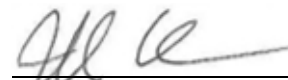
Petitioner's countable household net income exceeded the need standard to be eligible for non-energy SER because the applicable need standard for non-energy SER was \$625.00, and Petitioner's countable household net income exceeded \$625.00. Thus, the Department properly denied Petitioner's SER request for assistance with non-energy SER. However, Petitioner's countable household net income did not exceed the need standard to be eligible for energy/water/sewer SER because the applicable need standard was \$2,878.00, and Petitioner's countable net household income did not exceed \$2,878.00. Thus, the Department did not properly deny Petitioner's request for SER assistance with energy/water/sewer SER.

### **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 properly denied Petitioner's requests for Food Assistance Program benefits and State Emergency Relief assistance for non-energy services, but the Department did not properly deny Petitioner's request for State Emergency Relief assistance with energy services.

IT IS ORDERED that the Department's decision is **AFFIRMED IN PART** with respect to the Department's decision to deny Petitioner's requests for FAP benefits and SER for non-energy services, and the Department's decision is **REVERSED IN PART** with respect to the Department's decision to deny Petitioner's request for SER for energy services. The Department shall verify whether Petitioner still needs assistance with her energy services, and if the Department determines that Petitioner still needs assistance, the Department shall redetermine Petitioner's eligibility for SER for energy services consistent with this decision. The Department shall begin to implement this decision within 10 days of the date of mailing of this decision and order.

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**  
Susan Noel  
Wayne-Inkster-DHHS  
26355 Michigan Ave  
Inkster, MI 48141  
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**Interested Parties**

BSC4  
M Holden  
D Sweeney  
E. Holzhausen  
J McLaughlin  
MOAHR

**Via First Class Mail:**

**Petitioner**

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