



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: February 22, 2024
MOAHR Docket No.: 24-000457
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 February 20, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Kimberly Owens, Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) and process his 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. Petitioner was an ongoing recipient of FAP benefits. In connection with a redetermination, Petitioner's eligibility to receive FAP was due for review.
2. As part of the redetermination process, Petitioner was to participate in a redetermination interview and to submit requested verifications. The end of Petitioner's FAP certification period was January 31, 2024, and the month of January 2024 was the last month in which Petitioner received his FAP benefits.
3. On or around November 3, 2023, Petitioner submitted an application requesting SER assistance with heat and electric energy services. (Exhibit A, pp. 6-11)

4. On or around November 7, 2023, the Department sent Petitioner a State Emergency Relief Decision Notice informing him that his request for SER assistance with heat and electric energy services was denied because the household's countable income is higher than the maximum amount allowed for the program.
5. On or around January 2, 2024, Petitioner submitted a second application requesting SER assistance with heat and electric energy services.
6. On or around January 9, 2024, the Department sent Petitioner a State Emergency Relief Decision Notice informing him that his request for SER assistance with heat and electric energy services was denied because the household's countable income is higher than the maximum amount allowed for the program. (Exhibit A, pp. 22-26)
7. On or around January 10, 2024, Petitioner requested a hearing disputing the Department's actions with respect to his FAP and SER benefits.

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).

FAP

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.

Petitioner requested a hearing disputing the Department's actions with respect to his FAP benefits. At the hearing, the Department representative testified that Petitioner's eligibility to receive FAP benefits was due for review and as part of the redetermination process, Petitioner was required to participate in an interview and to submit requested information to determine ongoing eligibility. The Department representative testified that, since the date of the hearing request, Petitioner has completed the interview and submitted all requested verifications. The Department representative testified that Petitioner's FAP case is approved but a help desk ticket is required in order to remove the verification checklist that is still pending on his case in Bridges. The Department representative testified that Petitioner was approved for ongoing FAP benefits in the amount of \$291 effective February 1, 2024. However, because, as of the hearing date, Petitioner's FAP case appears to still be in pending status, the issue has not been fully

resolved and the Department will be ordered to resolve the help desk ticket and supplement Petitioner for FAP benefits from February 1, 2024, ongoing.

SER

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.

In this case, Petitioner requested a hearing disputing the Department's denial of his SER assistance with his outstanding heat and electric bills. At the hearing, it was established that Petitioner submitted two applications for SER assistance, the first on November 3, 2023, and the second on January 2, 2024, both of which were denied due to excess income. The Department representative testified that although not identified on Petitioner's SER applications, it was discovered that there is an additional member of Petitioner's household whose income was required to be counted for SER purposes. The Department representative testified that after including the income for group member Carla Champion, the household had income higher than allowed for the SER program.

Eligible households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. Funding for energy services assistance is provided through the Low-Income Home Energy Assistance Program (LIHEAP). ERM 301 (October 2023), p. 1. When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301, pp. 3-4. The SER should be processed using the past due amount and current bills that are not subject to shutoff should not be included in the amount needed. ERM 301, pp. 3-5. The Department must verify past due status, threatened shutoff or the need for gas or electricity and a bill must be obtained before authorizing a payment. The Department will contact the energy company and can use the Online Resources for Agencies (ORA) to access a client's energy account information and verify the account statement provided on the website in lieu of an actual bill. If the online statement is used, a copy must be retained in the case record. ERM 301, pp.11-13.

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (October 2023), p. 1. The Department will determine SER eligibility for the group as a whole and is to verify income, assets, and potential resources of all group members. An SER group consists of persons who occupy the same home. Home means the place where the members of the SER group keep their personal belongings and sleep. ERM 201 (October 2023), pp.1-2.

At the hearing, Petitioner did not dispute the Department's conclusion that [REDACTED] is a household group member for SER purposes. Petitioner testified that [REDACTED] lives in the home and receives mail at the address. There was no evidence

presented that [REDACTED] was a renter who lived with the SER group, or that she should be otherwise excluded as a group member per policy, as the emergency would adversely affect her and she would benefit from the application for SER, if approved. Therefore, the Department properly concluded that [REDACTED] is a household group member for SER purposes and that her income is countable. ERM 201, pp. 1-2.

Income eligibility is required for assistance with SER energy services, including heat and electric. All household members are included in the SER group and income of all household members is budgeted. Income verification used for current eligibility for any other Department administered program may be used, if available. ERM 301, pp. 3-8. The Department is to verify and budget all non-excluded gross income the SER group expects to receive during the 30-day countable income period. The Department will not prorate income. ERM 206 (October 2023), pp. 1-7. The first day of the 30-day countable income period is the date the local office receives a signed application. There is no income copayment for energy related services and the group is either eligible or not. For a group to be eligible for energy services, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period cannot exceed the standard LIHEAP income limit based on group size. If the income exceeds the limit, the request must be denied. The SER income need standard for energy/LIHEAP services including heat and electricity for Petitioner's household size of two is \$2,465. ERM 301, pp. 6-8; ERM 208, pp. 1-6.

To determine **net** income from employment or self-employment for SER purposes, the Department must deduct certain expenses of employment from the gross amount received, which can include but are not limited to, mandatory withholding taxes (25% of the gross), deductions required by the employer as a condition of employment, and deductions for health insurance. ERM 206, pp. 1-7.

For the November 3, 2023, application, the Department representative testified that in concluding that Petitioner's household had excess income, it considered Petitioner's earnings from employment as verified by the verification letter he submitted, as well as employment verification and pay stubs from [REDACTED] employment with two different jobs. (Exhibit A, pp. 17-21). According to the letter submitted by Petitioner, Petitioner earns [REDACTED] per hour and works part-time, approximately 20 hours per week. In the last 30 days since the letter was written, Petitioner had been paid [REDACTED]. The Department also presented an older employment verification form for [REDACTED] employment as a subcontractor, on which it is reported that she was paid [REDACTED] on August 11, 2023, and [REDACTED] on August 25, 2023. There were no paystubs or employment verification detailing [REDACTED] pay from her employment as a subcontractor for the months of November 2023 or January 2024, however. The Department presented two pay stubs from [REDACTED] employment with [REDACTED] showing that she had gross earnings of [REDACTED] on November 2, 2023, and [REDACTED] on November 17, 2023. [REDACTED] net earnings on the paystubs reflected the same amounts.

With respect to the January 2, 2024, SER application, the Department representative testified that updated pay information was submitted and showed that Petitioner received [REDACTED] monthly from his employment. The January 2024 paystubs showed that [REDACTED] was paid [REDACTED] on January 12, 2024, and [REDACTED] on January 26, 2024.

Petitioner testified that he is employed by a nonprofit organization and that his income fluctuates. Petitioner testified that his earnings are based on grants and in-kind donations, so his monthly income is different each month. Petitioner confirmed that at the time both letters were written from his employer verifying his employment, he earned [REDACTED] and [REDACTED] monthly, respectively. Petitioner did not dispute that [REDACTED] has two jobs but testified that the pay stubs submitted include extra earnings for mileage. Petitioner testified that [REDACTED] income also varies and is based on the number of clients she works with per pay period.

It was unclear whether the Department considered the August 2023 earnings from [REDACTED] employment as a subcontractor in processing the November 2023 and January 2024 SER applications; however, based on the other evidence presented, Petitioner's household earnings would be in excess of the income limit even if the employment earnings were excluded. In consideration of the paystubs submitted verifying [REDACTED] earnings from [REDACTED] as well as Petitioner's employment as verified by the letters submitted, the household's countable net income is greater than the \$2,465 income limit for both the November 3, 2023, and January 2, 2024, SER applications.

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 SER application.


DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to SER and **REVERSED IN PART** with respect to FAP.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's FAP case effective February 1, 2024, and resolve the outstanding help desk ticket;
2. Issue FAP supplements to Petitioner for any benefits he was eligible to receive but did not, if any, from February 1, 2024, ongoing, in accordance with Department policy; and
3. Notify Petitioner in writing of its decision.

ZB/ml



Zainab A. Baydoun
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

Richard Latimore
Wayne-Conner-DHHS
4733 Conner
Detroit, MI 48215

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Interested Parties

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Via First Class Mail:

Petitioner

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