



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED]  
[REDACTED], MI [REDACTED]

Date Mailed: March 15, 2024  
MOAHR Docket No.: 24-001039  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 March 6, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Shyla Coleman, hearings facilitator.

### **ISSUES**

The first issue is whether MDHHS properly denied Petitioner's application for Family Independence Program (FIP) benefits.

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

The third issue is whether MDHHS properly denied Petitioner's State Emergency Relief (SER) application requesting assistance with an energy bill.

### **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] 2023, Petitioner applied for FAP, cash assistance, and SER-Energy. Reported household members included Petitioner and her [REDACTED]-year-old daughter, [REDACTED] [REDACTED] (hereinafter, "Daughter"). Petitioner reported her mailing address but misspelled the street name.

2. On December 6, 2023, MDHHS mailed Petitioner notice of a telephone interview to be held on December 13, 2023.
3. On December 6, 2023, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting, among other items, proof of Daughter's school attendance and enrollment by December 18, 2023. The VCL was sent to the mailing address as reported by Petitioner on the application dated [REDACTED] 2023.
4. On December 15, 2023, the VCL mailed to Petitioner was returned to MDHHS as undeliverable as addressed.
5. On December 19, 2023, MDHHS denied Petitioner's SER- Energy application due to the copayment, shortfall, and/or contribution exceeding the amount to halt a shut-off of energy services.
6. On December 26, 2023, MDHHS mailed Petitioner a Notice of Missed Appointment form warning that Petitioner had until January 5, 2024, to reschedule the FAP interview or risk application denial.
7. On January 4, 2024, MDHHS denied Petitioner's FIP application due to Petitioner failing to verify school attendance and enrollment for Daughter.
8. As of January 4, 2024, Petitioner did not return to MDHHS verification of Daughter's school attendance or enrollment.
9. On January 5, 2024, MDHHS denied Petitioner's FAP benefit application due to a failure to be interviewed within 30 days of the application.
10. On January 30, 2024, Petitioner requested a hearing to dispute the denial of FIP, FAP, and SER- Energy. Petitioner additionally disputed State Disability Assistance (SDA).
11. On March 6, 2024, during an administrative hearing, Petitioner verbally withdrew her dispute concerning SDA benefits.

### **CONCLUSIONS OF LAW**

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180. SDA policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute SDA eligibility. Exhibit A, pp. 3-5. During the hearing, Petitioner testified she no longer disputed SDA eligibility and

withdrew her hearing request; MDHHS had no objections. Based on Petitioner's partial hearing withdrawal, Petitioner's dispute concerning SDA will be dismissed.

The FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. MDHHS administers the FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131. FIP policies are contained in the BAM, BEM, and RFT

Petitioner also disputed a denial of FIP eligibility. Exhibit A, pp. 3-5. Petitioner applied for cash assistance on [REDACTED] 2023. Exhibit A, pp. 8-23. A Notice of Case Action dated January 4, 2024, stated that Petitioner's application was denied due to Petitioner failing to timely verify Daughter's school attendance.<sup>1</sup> Exhibit A, pp. 38-42.

Dependent children are expected to attend school full-time, and graduate from high school or a high school equivalency program, to enhance their potential to obtain future employment leading to self-sufficiency. BEM 245 (July 2023) p. 1. A dependent child aged 6 through 15 years must attend school full-time. *Id.* If a dependent child aged 6 through 15 is not attending school full-time, the entire FIP group is not eligible. *Id.* At application, school attendance and enrollment for children at least 7 years of age must be verified. *Id.*, p. 11.

For all programs, MDHHS is to tell the client what verification is required, how to obtain it, and the due date. BAM 130 (October 2023) p. 3. MDHHS is to use the DHS-3503, Verification Checklist (VCL), to request verification. *Id.* MDHHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 7. MDHHS is to send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

Petitioner's application for FIP benefits reported a household including her [REDACTED]-year-old daughter. Accordingly, MDHHS mailed Petitioner a VCL on December 6, 2023, requesting proof of Daughter's school attendance and enrollment. Exhibit A, pp. 25-27. The due date for Petitioner to return verification was December 18, 2023. As of the termination notice date of January 4, 2024, Petitioner had not returned verification to MDHHS. Petitioner credibly testified that she did not receive the VCL.

MDHHS included a copy of the VCL mailed to Petitioner which was returned to MDHHS by the United States Postal Service (USPS). Exhibit A, p. 31. A USPS stamp stated that the VCL was "not deliverable as addressed". *Id.* The address on the VCL included Petitioner's mailing address but with a misspelled street name. The same street name misspelling was reported by Petitioner on her assistance application. Presumably, the VCL was not mailed to Petitioner because of the misspelling. The evidence supported

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<sup>1</sup> The notice also stated that Petitioner's income exceeded the income limit. The evidence suggested that Petitioner was eligible for FIP benefits based on income.

that Petitioner was at fault for not receiving the VCL due to failing to accurately report to MDHHS her mailing address.

Given the evidence, Petitioner failed to timely return properly requested proof of Daughter's school attendance and enrollment. Thus, MDHHS properly denied Petitioner's application for FIP benefits.

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 also disputed a denial of FAP eligibility. Exhibit A, pp. 3-5. Petitioner applied for FAP benefits on [REDACTED] 2023. Exhibit A, pp. 8-23. A Notice of Case Action dated January 5, 2024, stated that Petitioner's application was denied due to Petitioner failing to be interviewed. Exhibit A, pp. 43-46.

For FAP benefits, MDHHS must conduct a telephone interview before approving benefits.<sup>2</sup> BAM 115 (January 2024) p. 20. Interviews must be scheduled promptly to meet standards of promptness. *Id.*, p. 23. If a client misses an interview appointment, MDHHS is to send a Notice of Missed Interview advising a client that it is his/her responsibility to request another interview date. *Id.* If the client calls to reschedule, the interview should be held no later than the 30<sup>th</sup> day after application, if possible. *Id.* MDHHS is to not deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application. *Id.*, p. 6 and 18.

MDHHS testified it documented calling Petitioner on December 6, 2023 for an interview and that Petitioner did not answer. As a result, MDHHS mailed Petitioner notice of a telephone interview on December 6, 2023, for an interview to be held on December 13, 2023 between 8:45 and 10:45 a.m. Exhibit A, p. 24. MDHHS testified Petitioner was called at the appointment date and time, but Petitioner did not answer. Petitioner called MDHHS on December 20, 2023, resulting in an interview scheduled for December 26, 2023 at 8:45 a.m. MDHHS testified it documented calling Petitioner at 9:00 and 9:15 a.m. on December 26, 2023, and Petitioner again did not answer. Later that date, MDHHS mailed Petitioner a Notice of Missed Interview form which warned that Petitioner had until January 5, 2024 to be reschedule the interview or risk application denial. There was no evidence that Petitioner called MDHHS for an interview before requesting a hearing on January 30, 2024.

The evidence established that MDHHS called Petitioner at multiple appointment times for a FAP interview. The evidence also established that Petitioner failed to answer MDHHS's telephone calls. The evidence further established that MDHHS responded to Petitioner's only known telephone call to MDHHS. Given the evidence, Petitioner failed

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<sup>2</sup> In some circumstances, an in-person interview must be conducted. BAM 115 (January 2024) p. 1. Such circumstances are not relevant to the present case.

to be interviewed for her FAP application. Thus, MDHHS properly denied Petitioner's application due to a failure to be interviewed.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SER program pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER policies are contained in the Emergency Services Manual (ERM).

Petitioner lastly requested a hearing to dispute SER. Exhibit A, pp. 3-5. Petitioner specifically disputed a denial of SER requesting payment towards energy services. *Id.* A State Emergency Relief Decision Notice dated December 19, 2023, stated that Petitioner's SER- Energy application was denied due to the income/asset copayment, shortfall, and/or family contributions exceeding the amount of energy assistance requested. Exhibit A, pp. 32-34.

If the SER group meets all eligibility criteria but has a copayment, shortfall, or contribution, MDHHS is to not issue payment until the client provides proof that payment has been made or will be made by another agency. ERM 208 (December 2022) p. 5. If the copayment, shortfall, contribution, or combination exceeds the need, the application shall be denied unless good cause is granted. ERM 103 (October 2023) p. 5.

For SER applications denied due to a client's copayment, shortfall, and/or contribution exceeding need, expected documentary evidence would include a budget calculating the amount of copayment, shortfall, and/or contribution. Also expected would be supporting documents such as income verification. Additionally, documents verifying the amount of need (i.e., the amount of energy payment to stop a shut-off) should be submitted. MDHHS presented none of the above. Without such evidence, it cannot be determined if MDHHS properly denied Petitioner's SER- Energy application.

Given the evidence, MDHHS failed to establish it properly denied Petitioner's SER- Energy application. As a remedy, Petitioner is entitled to a reprocessing of the SER application dated [REDACTED] 2023.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning SDA benefits. Concerning SDA benefits, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application for FAP and FIP benefits dated [REDACTED] 2023. Concerning FAP and FIP benefits, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER- Energy application. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's SER- Energy application dated [REDACTED] 2023;
- (2) Reprocess Petitioner's SER eligibility subject to the finding that MDHHS failed to establish that Petitioner's copayment, shortfall, and/or contributions exceeded need; and
- (3) Issue notice and supplements, if any, in accordance with policy.

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

CG/nr

  
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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**

Jeanenne Broadnax  
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**Interested Parties**

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B. Cabanaw  
B. Sanborn  
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E. Holzhausen  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED]  
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[REDACTED], MI [REDACTED]