



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]
MI

Date Mailed: April 19, 2024
MOAHR Docket No.: 24-002421
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 on April 10, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Tonya Boyd, manager.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's State Emergency Relief (SER) for a water bill arrearage.

The second issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) eligibility.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of January 2024, Petitioner received ongoing FAP benefits in a benefit group that included a child who stayed with Petitioner two overnights per week.
2. On [REDACTED] 2024, Petitioner applied for SER seeking assistance with energy (SER- Energy) and water (SER- Water) bill arrearages.
3. On an unspecified date, MDHHS denied Petitioner's SER application for unspecified reasons.

4. On an unspecified date, MDHHS reduced Petitioner's monthly FAP eligibility beginning March 2024 to \$23. The reduction was based on the household having \$1,380 in retirement income and \$ child support expenses.
5. On [REDACTED] 2024, Petitioner reapplied for SER- Energy and SER- Water.
6. On March 8, 2024, Petitioner requested a hearing to dispute a termination of Medical Assistance (MA) benefits, a determination of FAP benefits beginning March 2024, and denials for SER-Energy and SER-Water.
7. On March 15, 2024, MDHHS denied Petitioner's SER- Water application due to Petitioner allegedly not having a shut-off threat.
8. On March 15, 2024, MDHHS approved Petitioner for a \$1,275 SER- Energy payment.
9. On April 10, 2024, during an administrative hearing, Petitioner withdrew his disputes concerning SER Energy and MA termination.

CONCLUSIONS OF LAW

The MA program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. MDHHS administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA 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 an unspecified action concerning MA benefits. Exhibit A, pp. 3-5. Petitioner testified that MDHHS terminated his MA eligibility for March 2024. MDHHS presented a Health Care Coverage Determination Notice dated March 15, 2024, stating that Petitioner was approved for MA benefits for March 2024. Exhibit C, pp. 1-3. Based on the approval notice, Petitioner agreed that his MA dispute was resolved. MDHHS had no objections to Petitioner's partial hearing request withdrawal. Based on Petitioner's withdrawal, Petitioner's hearing request concerning MA benefits will be dismissed.

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 also requested a hearing to dispute a denial of SER- Energy. Exhibit A, pp. 3-5. A State Emergency Relief Decision Notice dated March 15, 2024, stated that MDHHS

approved Petitioner for \$1,275 in energy bill payments. Exhibit B, pp. 1-3. Based on the approval, Petitioner acknowledged that his SER-Energy dispute was resolved; accordingly, Petitioner's SER-Energy dispute will be dismissed.

Petitioner additionally disputed a denial of SER- Water. Exhibit A, pp. 3-5. Petitioner applied for SER- Water on February 27, 2024. Exhibit A, pp. 62-67. A State Emergency Relief Notice dated March 15, 2024, verified that MDHHS denied Petitioner's application due to Petitioner allegedly not having a shut-off threat. Exhibit B, pp. 1-3.

SER helps to restore or prevent shut off to water service when service is necessary to prevent serious harm to SER group members. ERM 302 (December 2022) p. 1. SER payment must restore or continue service for at least 30 days at the current residence. *Id.* Verification of shut-off or threat of shut-off is required. *Id.*, p. 4.

MDHHS testimony acknowledged that Petitioner had a shut-off threat for water. Thus, MDHHS acknowledged that denying Petitioner for not having a shut-off threat was improper.

Given the evidence, MDHHS improperly denied Petitioner's SER-Water application dated [REDACTED] 2024.¹ As a remedy, Petitioner is entitled to a reprocessing of the application.

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 lastly requested a hearing to dispute a reduction in FAP benefits. Exhibit A, pp. 3-5. MDHHS failed to present written notice of the alleged FAP benefit reduction. In the absence of written notice stating the amount and effective date of reduction, Petitioner's testimony will be accepted as fact. Petitioner testified that MDHHS terminated Petitioner's monthly FAP benefit to \$23 beginning March 2024.²

FAP benefit amounts are determined by a client's net income. BEM 556 outlines the factors and calculations required to determine a client's net income. FAP net income is based on group size, countable monthly income, and relevant monthly expenses. MDHHS failed to provide budget documentation; instead, MDHHS testified to all budget

¹ The denial notice included a 30-day approval period for SER-Energy suggesting an application submission date of [REDACTED] 2024; however, the only SER application presented was dated [REDACTED] 2024. The evidence suggested that Petitioner twice applied for SER. Given the multiple applications, Petitioner's earlier application date will be recognized as the disputed date of application.

² Documentary evidence supported that Petitioner's FAP eligibility was not as low and that a reduction was not as recent. An Eligibility Summary listed monthly FAP issuances to Petitioner of \$152 since January 2024. Exhibit A, p. 69.

factors. During the hearing, all relevant budget factors were discussed with Petitioner. Petitioner disputed benefit group size, unearned income, and child support expenses.³

MDHHS testified it factored a benefit group including only Petitioner after learning that Petitioner's child only spent two nights per week with Petitioner. When a child spends time with multiple caretakers who do not live together, MDHHS is to determine a primary caretaker. BEM 212 (January 2022) p. 3. The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. *Id.*, p. 2. Only one person can be the primary caretaker and the other caretaker(s) is considered the absent caretaker(s). *Id.*, p. 3. Because Petitioner only had custody of his child twice per week, he is the absent caretaker and not entitled to have his child included in his FAP benefit group. Thus, MDHHS properly factored a FAP benefit group including only Petitioner.

MDHHS testified it factored monthly retirement income of \$1,380 for Petitioner. Petitioner testified his monthly retirement income was only \$1,364. Neither party verified its testimony with documentary evidence.

MDHHS factored child support expenses of \$█ Petitioner testified his monthly child support expenses are \$█ Again, neither side presented documentary evidence, though MDHHS acknowledged that Petitioner pays child support, and it could not justify why \$█ was budgeted.

Given the evidence, MDHHS failed to establish it properly factored Petitioner's retirement income and child support expenses.⁴ As a remedy, Petitioner is entitled to a reprocessing of FAP benefits. Because documentary evidence did not verify precise amounts for retirement income or child support expenses, MDHHS will not be directed how to reprocess Petitioner's FAP eligibility.

³ Petitioner initially disputed housing expenses by claiming his monthly expenses were \$680. MDHHS factored \$640 in monthly housing expenses. MDHHS then testified that a mortgage statement verified only \$632.43 in housing expenses. After checking his paperwork, Petitioner's testimony acknowledged that \$632.43 accurately reflected monthly housing expenses.

⁴ Based on the budget factors provided by MDHHS, MDHHS appeared to use the proper calculations resulting in a net income of \$1,093 which resulted in a \$23 issuance. Undisputed budget factors included \$0 dependent care expenses, \$0 medical expenses, a standard deduction of \$198, an adjusted gross income of \$1,182, and a standard heat/utility credit of \$680.

DECISION AND ORDER

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

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER- Water application. Also, MDHHS failed to establish it properly determined Petitioner's FAP eligibility. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's SER-Water application dated [REDACTED] [REDACTED] 2024 subject to the finding that Petitioner established a shut-off threat to water service;
 - (2) Reprocess Petitioner's FAP eligibility beginning March 2024 subject to the finding that MDHHS failed to establish that it properly factored Petitioner's retirement income and child support expenses; and
 - (3) Issue supplements and notice, if any, in accordance with policy
- The actions taken by MDHHS are **REVERSED**.

CG/nr



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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

**MDHHS-Wayne-15-Greydale-
Hearings@michigan.gov**

Interested Parties

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E. Holzhausen

MOAHR

Via-First Class Mail :

Petitioner

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