



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: May 31, 2024
MOAHR Docket No.: 24-004504
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 May 23, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Danielle Moton, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's State Emergency Relief (SER) applications requesting energy 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. On [REDACTED] 2024, Petitioner applied for SER seeking assistance with a shut-off threat to heat and electricity (i.e., energy).
2. On February 16, 2024, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of wages by February 26, 2024.
3. On March 8, 2024, MDHHS denied Petitioner's SER- Energy application due to Petitioner's failure to timely return wages.

4. As of March 14, 2024, Petitioner had not submitted to MDHHS verification of wages.
5. On [REDACTED] [REDACTED] 2024, Petitioner reapplied for SER-Energy and reported a household including a minor child.
6. From March 14, 2024, through April 12, 2024, Petitioner was expected to receive approximately \$ [REDACTED] in gross income.
7. On March 18, 2024, MDHHS denied Petitioner's application due to excess income.
8. On April 11, 2024, Petitioner requested a hearing to dispute the denial of SER-Energy. Petitioner also disputed an unspecified issue concerning Food Assistance Program (FAP) benefits.
9. On May 23, 2024, during an administrative hearing, Petitioner withdrew the dispute concerning FAP benefits.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute FAP eligibility. Exhibit A, pp. 3-4. Petitioner testified she specifically sought a replacement of FAP benefits and/or food. During the hearing, Petitioner withdrew her dispute concerning FAP benefits; MDHHS had no objections. Concerning FAP benefits, Petitioner's hearing request will be dismissed.

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. MDHHS policies are contained in the Emergency Relief Manual (ERM).

Petitioner also requested a hearing to dispute a denial of SER applications. Exhibit A, pp. 3-4. Petitioner's hearing request cited three SER applications, but MDHHS only denied two as of Petitioner's hearing request submission.¹ Both disputed SER

¹ MDHHS indicated a third SER- Energy application, dated [REDACTED] [REDACTED] 2024, was denied on April 19, 2024. If Petitioner disputes the denial of this application, she may request a hearing by submitting to MDHHS another written hearing request.

application denials concerned energy assistance. Petitioner's primary dispute was not the denial of SER as much as MDHHS allegedly failing to secure a shut-off suspension from Petitioner's energy provider.

MDHHS must provide some form of assistance within 48 hours of receiving an SER application for energy. ERM (January 2024) p. 1. MDHHS staff must contact the energy provider to secure a hold on the pending disconnect to resolve the immediate emergency and allow time to determine the household's eligibility for program benefits, if an automatic hold was not placed through Bridges, MDHHS's database. *Id.*

Petitioner testified that her energy service was shut-off, through she failed to specify when. Thus, it cannot be determined if MDHHS was at fault for failing to secure a hold on any shut-off of service. MDHHS is only responsible for halting a shut-off, at most, while an SER supplication is pending, or after an approval but before payment is issued. Because Petitioner could not state when shut-off occurred, it cannot be stated that MDHHS failed to comply with its policy. Furthermore, even if MDHHS failed to comply with its policy, Petitioner is entitled to no administrative hearing remedy other than an order that a shut-off hold be secured. In the present case, no such hold would be needed because Petitioner resolved the shut-off threat.² Petitioner may be entitled to an administrative remedy if MDHHS improperly denied either of Petitioner's SER applications.

Petitioner's first SER-Energy application was submitted to MDHHS on [REDACTED] 2024. MDHHS testified that the SER application was denied due to a failure to verify income.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (October 2022) p. 6. The due date is eight calendar days beginning with the date of application. *Id.* MDHHS is to use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. *Id.*

MDHHS credibly testified it sent Petitioner a Verification Checklist on February 16, 2024 giving Petitioner until February 26, 2024, to verify income. When Petitioner failed to return income verification, MDHHS testified it denied Petitioner's application and mailed notice accordingly. Petitioner's testimony acknowledged not returning verification, though she claimed she did not receive a VCL. Petitioner's testimony was not deemed persuasive because her claim was not corroborated or even mentioned within her hearing request. Furthermore, Petitioner did not request a hearing until after a later SER application was denied; the delay suggests that Petitioner thought the earlier SER application to be proper. Given the evidence, MDHHS properly denied Petitioner's SER application dated [REDACTED] 2024.

² Petitioner testified that a new shutoff threat has occurred and that her services may be shut-off again. If true, Petitioner should reapply for SER-Energy.

Petitioner reapplied for SER-Energy on [REDACTED] 2024. Exhibit A, pp. 7-13. A State Emergency Relief Decision Notice dated March 18, 2024, stated Petitioner was denied due to excess income. Exhibit A, pp. 19-23.

There are no income copayments for SER- Energy. ERM 208 (October 2023) p. 1. With respect to income, clients are either eligible or not for SER-Energy. *Id.* For a group to be eligible for SER-Energy, 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 income standard which is based on the number of group members. *Id.* If the income exceeds the income standard limit, the SER request must be denied. *Id.*

A single SER group consists of persons who occupy the same home. ERM 201 (October 2023) p. 1. It was not disputed that Petitioner resided with a minor child. Thus, Petitioner's SER group size is two persons.

MDHHS is to verify and budget all non-excluded gross income the SER group expects to receive during the countable income period. ERM 206 (November 2023) p. 1. The countable income period consists of 30 days beginning with the SER application date. *Id.* In the present case, the countable income period is from March 14 through April 12, 2024.

It was not disputed that Petitioner receives approximately \$ [REDACTED] in gross wages every two weeks. Petitioner testified her next biweekly pay date is May 24, 2024. Extrapolating from Petitioner's next pay date results in Petitioner having three pay dates (March 15, March 29, and April 12, 2024) within the countable income period.³ Thus, Petitioner's gross countable income is \$ [REDACTED] for purposes of SER-Energy. MDHHS applies a 25% withholding tax credit to wages which results in countable net income of \$ [REDACTED]

The SER-energy income standard limit for a two-person group is \$2,465. ERM 208 (October 2023) p. 8. Petitioner's countable net income of \$ [REDACTED] exceeds the income limit for SER-Energy. Thus, MDHHS properly denied Petitioner's SER-Energy application due to excess income.

³ Petitioner was advised to reapply for SER-Energy on a date in which she does not have three pay periods within the following 30 days (counting the application date).

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew the dispute concerning FAP benefits. Concerning FAP 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 SER-Energy applications dated [REDACTED] and [REDACTED] 2024. The actions taken by MDHHS are **AFFIRMED**.

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

Tara Roland 82-17
Wayne-Greenfield/Joy-DHHS
8655 Greenfield
Detroit, MI 48228

**MDHHS-Wayne-17-
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Interested Parties

Wayne 17 County DHHS
BSC4
J. McLaughlin
E. Holzhausen
MOAHR

Via-First Class Mail :

Petitioner

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