



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: June 18, 2024  
MOAHR Docket No.: 24-005369  
Agency No.: [REDACTED]  
Petitioner: [REDACTED] [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

### **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 by telephone on June 12, 2024. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Sunshine Simonson, Eligibility Specialist.

### **ISSUE**

Did the Department properly deny Petitioner's March 18, 2024 application for State Emergency Relief (SER)?

Did the Department properly deny Petitioner's March 18, 2024 application for Food Assistance Program (FAP)?

### **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 March [REDACTED] 2024, the Department received two applications for assistance from Petitioner. One application was for FAP for Petitioner's household of three, consisting of Petitioner, her spouse (Spouse), and their 19 year old son, [REDACTED] ([REDACTED] (Exhibit A, pp. 12 – 19). The second application was for SER for assistance in paying Petitioner's electric bill. (Exhibit A, pp. 20 – 26).
2. On April [REDACTED] 2024, the Department interviewed Petitioner for both applications. (Exhibit A, pp. 27 – 33).

3. Petitioner disclosed household income earned by Spouse from employment, of \$■■■■ bi-weekly, and that Spouse worked an average of 40 hours per week. She reported no other income in the household and gave the Department permission to retrieve an Equifax Work Number report for Spouse. (Exhibit A, pp. 16, 23, 31).
4. Petitioner also disclosed that ■■■ is a full time student at ■■■ and not working, and was advised as to departmental policy regarding student status and ineligible students. (Exhibit A, p. 28).
5. On April ■■■ 2024, the Department sent Petitioner a Notice of Case Action (NOCA), denying Petitioner's FAP application because the 3-person group exceeded the gross income limit for FAP. (Exhibit A, pp. 41 – 44).
6. On April ■■■ 2024, the Department also sent Petitioner a State Emergency Relief Decision Notice, denying Petitioner's application for SER because the countable income was higher than the maximum allowed for the program. (Exhibit A, pp. 45 – 49).
7. On April ■■■ 2024, the Department received Petitioner's request for hearing as to the denial of her FAP and SER applications, disputing the Department's calculation of Spouse's income and the Department's failure to account for a garnishment being deducted from Spouse's income. (Exhibit A, pp. 3 – 9).
8. On April ■■■ 2024, the Department also received new applications from Petitioner for FAP and SER.
9. On May ■■■ 2024, the Department approved Petitioner's April 30, 2024 application for SER assistance for her electric bill.
10. As of May 17, 2024, Petitioner's April ■■■ 2024 FAP application was pending.

### **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).

#### **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.

Petitioner requested a hearing regarding denial of a SER application she submitted to the Department on March 18, 2024. After the commencement of the hearing, Petitioner testified that she reapplied for SER, for the same services as her original application, on

April 30, 2024, and was approved and requested to withdraw her request for hearing concerning SER. The Department testified that Petitioner was approved for SER on May 9, 2024.

The request for hearing was withdrawn on the record and the Department had no objection.

### **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 requesting a hearing to dispute the denial of her application for FAP, specifically disputing the Department's calculation of Spouse's income and the Department's failure to account for a garnishment being deducted from Spouse's income.

Each time the Department evaluates eligibility of a person and household for FAP benefits, it must determine who must be included in the FAP group. BEM 212 (January 2022), p. 1. People who live together and purchase and prepare food together must be included in the same group. BEM 212, p. 1. Additionally, parents and their children under the age of 22 who reside together must be included in the same group. BEM 212, p. 1. However, a person in student status who does not meet the criteria set forth in BEM 245 is deemed an ineligible student and is not included in the FAP group. BEM 212, p. 9.

Even though ■■■ is a full time college student and does not work and the Department advised Petitioner was an ineligible student (Exhibit A, p. 28), the Department testified that it included ■■■ in the group when determining Petitioner's FAP eligibility. Thus, the Department evaluated Petitioner's eligibility for a certified FAP group size of three, comprised of Petitioner, Spouse, and ■■■ (Exhibit A, pp. 12 – 19).

In determining Petitioner's eligibility for FAP, the Department must consider all countable earned and unearned income available to the Petitioner and the FAP group. BEM 500 (April 2022), pp. 1 – 5. Countable income is gross income that is not specifically excluded. BEM 500, p. 3. Gross income is the amount of income before any deductions such as taxes or garnishments to repay a debt or meet a legal obligation. BEM 500, p. 4. Prospective income is income not yet received but expected going forward. BEM 505 (October 2023), pp. 1, 3 – 4, 6 – 7. For the purposes of FAP, the Department must convert income that is received more often than monthly into a standard monthly amount. The average of bi-weekly amounts is multiplied by 2.15. BEM 505, pp. 8 – 9.

Any FAP group, without a member over 60 years of age, or disabled, or a disabled veteran (SDV), that has income in excess of the limit for categorical eligibility, as set forth in RFT 250, has income in excess of the FAP gross income limit. BEM 213 (March 2024), pp.

1 – 2. For a FAP group size of three, the income limit for categorical eligibility is \$4,144. RFT 250 (October 2023).

The Department may only use the past 30 days of income if it appears to accurately reflect the income expected to be received in the benefit month and must discard any pay from the past 30 day period if it does not reflect the normal expected pay amounts. BEM 505, p. 6. The Department may only prospect income based on the past 30 days if a) income verification was requested and received, b) payments were received by the client after the verifications were submitted, and c) there are no known changes in the income being prospected. BEM 505, p. 3.

In this case, the Petitioner advised the Department during her interview that Spouse's income, as reported on the Work Number, a database accessible to the Department where employers may voluntarily report employment information for Department clients, was accurate and reflective of the group's future earnings. (Exhibit A, p. 31).

The Department presented the Work Number report through April 5, 2024, and testified that it used the following pay dates and amounts to determine Spouse's income:

February 23, 2024	\$ [REDACTED]
March 8, 2024	[REDACTED]

Petitioner disputed the Department's use of gross income where Spouse's biweekly pay was reduced by a \$700 monthly garnishment. Department policy provides that amounts withheld due to garnishment are still considered part of gross income. BEM 500 (April 2022), pp. 4-5).

Therefore, the Department properly considered the gross amount shown on Spouse's paystub, which total \$ [REDACTED] monthly, or an average bi-weekly gross pay of \$ [REDACTED] which, when multiplied by the required 2.15 multiplier, results in a standard monthly average of \$ [REDACTED] (dropping cents). Because the Department's calculation was based on verified countable income, the Department properly concluded that Petitioner's FAP group had gross monthly income in excess of the income limit for categorical eligibility. (Exhibit A, p. 42). Therefore, the Department properly denied Petitioner's March [REDACTED] 2024 FAP application.

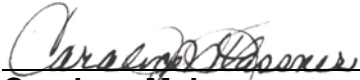
During the hearing, Petitioner also testified that Spouse had a heart attack on or about April [REDACTED] 2024 and is now off work, which is what prompted her to re-apply for FAP. As she has already re-applied and her application is pending, no further discussion of this issue is necessary.

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 March [REDACTED] 2024 FAP application for exceeding the gross income limit for FAP.

**DECISION AND ORDER**

Accordingly, Petitioner's request for hearing as to her March 18, 2024 SER application is **DISMISSED** and the Department's FAP decision is **AFFIRMED**.

CML/dm

  
\_\_\_\_\_  
**Caralyce M. Lassner**  
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**  
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**Via-First Class Mail :**

**Petitioner**

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