



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: July 16, 2024
MOAHR Docket No.: 24-006409
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 July 8, 2024. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Danielle Moton, specialist.

ISSUES

The first issue is whether MDHHS properly processed Petitioner's State Emergency Relief (SER) request for energy assistance.

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. On [REDACTED] [REDACTED] 2023, Petitioner applied for SER seeking assistance with an energy bill arrearage.
2. On October 6, 2023, MDHHS approved Petitioner for \$1,545.24 in energy payments, conditional upon Petitioner submitting to MDHHS proof of a \$10.83 copayment by October 27, 2023.

3. On October 28, 2023, Petitioner submitted to MDHHS proof of an \$11 payment on his energy bill.
4. On April 12, and April 26, 2024, Petitioner's daughter received respective gross biweekly wages of \$ [REDACTED] and \$ [REDACTED]
5. As of May 2024, Petitioner was an ongoing recipient of FAP benefits of a two-person benefit group that included Petitioner's daughter.
6. As of May 2024, Petitioner received \$977 in combined gross monthly Supplemental Security Income (SSI) and Retirement, Survivors, Disability, Insurance (RSDI).
7. As of May 2024, Petitioner's benefit group had no day care, medical, or child support expenses.
8. As of May 2024, Petitioner had monthly housing expenses of \$24 and an obligation to pay for heating and/or cooling.
9. On May 13, 2024, MDHHS reduced Petitioner's FAP eligibility to \$23 per month beginning June 2024.
10. On May 21, 2024, Petitioner requested a hearing to dispute MDHHS's failure to issue energy SER payment and to dispute the reduction in FAP benefits.

CONCLUSIONS OF LAW

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 requested a hearing, in part, to dispute MDHHS's failure to process a conditional SER payment. Exhibit A, pp. 3-4. Petitioner applied for SER on September 28, 2023. Exhibit A, pp. 8-14. A State Emergency Relief Decision Notice dated October 6, 2023, stated that Petitioner was eligible for energy bills payments totaling \$1,545.24 conditional upon Petitioner submitting to MDHHS proof of a \$10.83 copayment by October 27, 2023.¹ Exhibit A, pp. 28-31.

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.

¹ Client's must request hearings within 90 calendar days of written notice (see BAM 600). Because Petitioner did not dispute the SER decision within 90 days, the substance of MDHHS's decision cannot be evaluated. However, MDHHS's absence of SER payment can be evaluated because that action is not tied to a written notice.

Verification of payment must be received in the MDHHS office within the 30-day eligibility period or no SER payment will be made, and the client will then have to reapply. *Id.* The State Emergency Relief Decision Notice must be used to inform the SER group of the amount that must be paid and the due date for returning proof of payment. *Id.* The deadline date is always the last day of the 30-day eligibility period regardless of when the client requests the service. *Id.*

Petitioner submitted to MDHHS on October 28, 2023, a receipt verifying that Petitioner paid \$11 on his energy bill.² Exhibit A, p. 27. Petitioner did not deny submitting proof of payment on October 28, 2023.³ The evidence established that Petitioner submitted to MDHHS proof of SER copayment on October 28, 2023.

Unfortunately for Petitioner, the due date to return verification of payment was October 27, 2023: one day earlier. The evidence established that the due date was properly calculated as 30 days from Petitioner's SER application date and that notice of the date was properly issued to Petitioner.

Petitioner testified that he has served his community for 20+ years which has included time as a football coach, church attendee, and non-profit agency volunteer. Petitioner's testimony was credible but ultimately irrelevant to whether MDHHS properly did not issue SER payment.⁴

The evidence established that Petitioner failed to timely submit proof of a \$10.83 SER copayment to MDHHS by October 27, 2023. Thus, MDHHS properly did not issue SER payment of \$1,545.24. As discussed during the hearing, Petitioner's recourse is to reapply for SER.⁵

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 also requested a hearing to dispute a reduction in FAP benefits. Exhibit A, pp. 3-4. A Notice of Case Action dated May 13, 2024, stated that Petitioner's FAP eligibility would be reduced to \$23 beginning June 2024. Exhibit A, pp. 17-21.

² Petitioner was required to only pay \$10.83. Petitioner's \$.17 over Overpayment only results in reducing the SER payment by the overpayment amount rather than denying SER payment (see ERM 208).

³ Furthermore, Petitioner's electronic case file indicated that MDHHS received Petitioner's copayment on October 28, 2024.

⁴ Petitioner also stated he may have been short on an SER payment by \$.01. Neither Petitioner nor MDHHS presented corroborative evidence that Petitioner's SER copayment was short.

⁵ MDHHS testified that SER payments are currently being denied due to lack of funds. Thus, reapplication by Petitioner may be fruitless until funds again become available.

FAP benefit amounts are based on a client's net income. Net income, for purposes of FAP benefits, is based on the client's group size, countable monthly income, and relevant monthly expenses. BEM 556 outlines the factors and calculations required to determine net income. MDHHS presented budget documents explaining all relevant factors and calculations.⁶ Exhibit A, pp. 32-34. During the hearing, all relevant budget factors were discussed with Petitioner.

In determining Petitioner's FAP eligibility, MDHHS factored in a benefit group that included Petitioner and his daughter. Petitioner did not dispute the benefit group size of two persons.⁷

It was not disputed that Petitioner's daughter was employed. Biweekly pay stubs from April 2024 listed gross wages for Petitioner's daughter of \$ [REDACTED] and \$ [REDACTED]. Exhibit A, pp. 24-26. For FAP benefits, MDHHS generally counts gross wages.⁸ BEM 501 (January 2024) p. 7. Stable or fluctuating biweekly employment income is converted to a monthly amount by multiplying the average income by 2.15. BEM 505 (October 2023) p. 8. Multiplying Petitioner's daughter's average biweekly income by 2.15 results in monthly gross wages of \$2,255 (dropping cents). MDHHS gives a 20% credit for timely reported wages. Applying the credit to Petitioner's daughter's income results in countable wages of \$1,804.

It was not disputed that Petitioner received a combination of gross RSDI and/or SSI benefits totaling \$977 per month. For FAP benefits, gross RSDI is countable. BEM 503 (January 2023) p. 29. For FAP benefits, MDHHS is to count a gross SSI benefit. BEM 503 (January 2023) p. 34. Adding Petitioner's unearned income of \$977 and Petitioner's daughter's countable wages of \$1,804 results in a total countable income of \$2,781.

MDHHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (January 2024) p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, MDHHS considers the following expenses: shelter expenses (housing and utilities) up to a capped amount, dependent care costs, and court-ordered child support and arrearages paid to non-household members (see *Id.*). An SDV group that has a verified one-time or ongoing medical expense(s) of more than \$35 for an SDV person(s) will receive the standard medical deduction (SMD) of \$165. *Id.* p. 9. If the group has actual medical expenses which are more than the SMD, the group has the option to verify their actual expenses instead of receiving the SMD. *Id.*

Petitioner's testimony acknowledged his benefit group had no dependent care or child support expenses. Petitioner was disabled but did not allege having any medical expenses. Petitioner's group's non-shelter expenses are \$0.

⁶ The approval notice sent to Petitioner included a summary including all budget factors. Exhibit A, p. 18

⁷ See BEM 212 for policies on determining group size for FAP benefits.

⁸ Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (January 2024) p. 7. The evidence did not suggest any applicable exceptions for the present case.

Petitioner's FAP benefit group size justifies a standard deduction of \$198 (see RFT 255). The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction and countable non-shelter expenses are subtracted from the countable monthly income to calculate the group's adjusted gross income. Subtracting the standard deduction (\$198) and countable non-shelter expenses (\$0) from Petitioner's group's countable income (\$2,781) results in an adjusted gross income of \$ [REDACTED]

MDHHS credited Petitioner with monthly housing expenses of \$24; Petitioner did not allege additional housing expenses. MDHHS credited Petitioner with a standard heating/utility (h/u) credit of \$680. RFT 255 (October 2023) p. 1. Generally, the h/u credit covers all utility expenses and is the maximum credit available.⁹ Adding Petitioner's housing and utility credits results in total shelter expenses of \$704.

MDHHS only credits FAP benefit groups with an "excess shelter" expense. The excess shelter expense is calculated by subtracting half of Petitioner's adjusted gross income from Petitioner's total shelter obligation. Petitioner's excess shelter amount is \$0.

The FAP benefit group's net income is determined by subtracting the excess shelter expense from the group's adjusted gross income; doing so results in \$2,583 in net income for Petitioner's group. A chart is used to determine the proper FAP benefit issuance.¹⁰ RFT 260 (October 2023) pp. 1-5. Based on Petitioner's group size and net income, Petitioner's proper FAP issuance for June 2024 is \$23: the same amount calculated by MDHHS. It is found that MDHHS properly determined Petitioner's FAP eligibility beginning June 2024.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly processed Petitioner's SER application dated [REDACTED] 2023. MDHHS also properly determined Petitioner to be eligible for \$23 in FAP benefits beginning June 2024. The actions taken by MDHHS are **AFFIRMED**.

CG/nr



Christian Gardocki
Administrative Law Judge

⁹ MDHHS allows additional credits for "actual utility expenses". Such expenses are only allowed for utility installation charges, water well installation and maintenance, and septic installation and maintenance. BEM 554 (October 2019) p. 15. There was no evidence of applicable exceptions.

¹⁰ FAP eligibility can also be calculated by multiplying the net income by 30% and subtracting the amount from the maximum FAP issuance for the group.

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 :

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Petitioner

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