



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
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██████████, MI ██████████

Date Mailed: November 18, 2024  
MOAHR Docket No.: 24-011809  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**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 telephone hearing was held via Microsoft Teams on November 14, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Latasha Wright, specialist.

**ISSUES**

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

The second issue is whether MDHHS properly denied Petitioner's Child Development and Care (CDC) application.

The third issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER) for energy services.

**FINDINGS OF FACT**

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

1. In July 2024, Petitioner received gross weekly wages of \$██████ \$██████ \$██████ and \$██████
2. As of July 2024, Petitioner received \$122 in averaged monthly child support.

3. On July 31, 2024, Petitioner applied for CDC benefits and reported a household including [REDACTED] [REDACTED] (hereinafter, "Child"). Petitioner also reported ongoing employment income.
4. On [REDACTED] [REDACTED] 2024, Petitioner separately applied for FAP benefits and again reported a household with Child and ongoing employment.
5. As of July 2024, neither Petitioner nor Child were homeless, migrant farmworkers, or Family Independence Program (FIP) benefit recipients. Also, neither Petitioner nor child were senior, disabled, or disabled veterans (SDV). Additionally, neither Petitioner nor Child were involved with Children's Protective Services (CPS) or foster care.
6. On August 5, 2024, MDHHS denied Petitioner's application for CDC due to excess gross income.
7. On August 16, 2024, MDHHS denied Petitioner's application for FAP benefits due to excess gross income.
8. On [REDACTED] [REDACTED] 2024, Petitioner applied for SER seeking assistance with an energy bill.
9. On October 14, 2024, MDHHS denied Petitioner's SER-Energy request due to excess income.
10. As of October 2024, Petitioner received an unspecified amount of income.
11. On October 22, 2024, Petitioner requested a hearing to dispute the denials of FAP, CDC, and SER-Energy 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).

The CDC program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The CDC program is implemented by 45 CFR 98.1-99.33. MDHHS administers the CDC program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1)

and Mich Admin Code, R 400.5001-.5020. CDC policies are contained in the BAM, BEM, and RFT.

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, part, to dispute a denial of FAP benefits. Exhibit A, pp. 4-6. Petitioner applied for FAP benefits on [REDACTED] [REDACTED] 2024. Exhibit A, pp. 19-27. A Notice of Case Action dated August 16, 2024, stated that MDHHS denied Petitioner's application due to excess gross income. Exhibit A, pp. 55-59.

To be eligible for FAP benefits, a non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2017) p. 1. An SDV group is one with a senior (a person over the age of 60 years), disabled individual, or disabled veteran. *Id.*

A traditionally categorically eligible FAP group is one whose members are all Family Independence Program (FIP) and/or State Disability Assistance (SDA) and/or Supplemental Security Income recipients (SSI). BEM 213 (January 2023) p. 1. Non-traditionally categorically eligible groups are categorically eligible based on Domestic Violence Prevention Services (DVPS) but an income and asset test are required. *Id.*, p. 2. Categorical FAP groups with three or more members that exceed the gross and/or 100 percent net income limit, but whose gross income is at or below 200% of the Federal Poverty Level (FPL) and who meet the asset limit, and all other FAP eligibility requirements may be eligible for benefits as low as \$1 as determined by the Food Assistance Issuance Tables in RFT 260. *Id.*, p. 4.

Petitioner's application did not claim that Petitioner or Child were senior, disabled, or disabled veterans. There was no evidence suggesting that Petitioner or Child were FIP, SDA, or SSI recipients. As a two-person FAP group with no SDV members, the group's income must fall below 200% of the FPL to establish FAP eligibility.<sup>1</sup>

MDHHS received documentation from Petitioner verifying ongoing wages. Exhibit A, pp. 36-37. In July 2024, Petitioner received gross weekly income of \$[REDACTED] \$[REDACTED] \$[REDACTED] and \$[REDACTED]. For FAP benefits, MDHHS generally counts gross wages.<sup>2</sup> BEM 501 (January 2024) p. 6. MDHHS converts stable or fluctuating weekly income to a monthly amount by multiplying the average income by 4.3. BEM 505 (October 2023) p. 8. Adding Petitioner's weekly wages and dividing by four results in an average weekly gross wage of \$[REDACTED]. Multiplying the average weekly wage by four results in countable monthly income of \$3,880 (dropping cents).

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<sup>1</sup> See BEM 212 for determining the members for FAP groups.

<sup>2</sup> Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

MDHHS also calculated that Petitioner received gross monthly child support of \$122. Petitioner did not dispute the monthly amount of child support. For FAP and CDC, certified child support received by a parent is countable income for the child. BEM 503 (April 2024) p. 6. Adding child support to Petitioner's wages results in \$4,002 in monthly income for the group. MDHHS calculated a slightly lower countable income of \$3,893. Exhibit A, p. 50. For purposes of this decision, it will be accepted that Petitioner's group's countable income for FAP benefits is \$3,893.

The monthly gross income limit for a two-person non-traditional categorically eligible FAP group is \$3,288.<sup>3</sup> RFT 250 (October 2023) p. 1. Petitioner's benefit group's countable gross income exceeded the gross income limit. Thus, MDHHS properly denied Petitioner's application for FAP benefits.

Petitioner also requested a hearing to dispute a denial of CDC benefits. Exhibit A, pp. 4-6. Petitioner applied for CDC benefits on July 31, 2024. Exhibit A, pp. 8-18. A Notice of Case Action dated August 5, 2024, stated that CDC was denied due to excess income.<sup>4</sup> Exhibit A, pp. 51-54.

There are five types of CDC eligibility groups for which an income determination is waived: those involved with Children's Protective Services, foster care, Family Independence Program recipients, migrant farmworkers, and homelessness. BEM 703 (October 2023) pp. 13-14. If a client's CDC group is not eligible for an income waiver, then the group may be eligible for CDC benefits, subject to a determination of income. *Id.*, p. 16. There was no evidence that Petitioner's group qualified for CDC based on a waiver of income-eligibility. Thus, Petitioner is left to qualify for CDC benefits based on an income determination.

To be eligible for CDC at application, a program group's countable gross monthly income must not exceed the maximum monthly gross income limit by family size associated with the program entry limit. *Id.* Income eligible families may have a co-payment amount called a family contribution. *Id.*

For CDC benefits, MDHHS generally counts gross wages.<sup>5</sup> BEM 501 (January 2024) p. 7. For non-child support income, MDHHS uses past income to project a CDC group's income. BEM 505 (October 2023) p. 5. Stable or fluctuating weekly employment income is converted to a monthly amount by multiplying the average income by 4.3. *Id.*, p. 8.

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<sup>3</sup> The Notice of Case Action dated August 16, 2024, listed a gross income limit of \$2,137. Exhibit A, p. 56. A gross income limit of \$2,137 is 130% of the FPL and is applicable when a benefit group is not categorically eligible. Presumably, MDHHS determined Petitioner's FAP eligibility based on 200% of the FPL, and in compliance with policy, determined that the group was not categorically eligible because the group's income exceeded 200% of the FPL. After determining the group was not categorically eligible, the 130% income limit would then apply.

<sup>4</sup> The notice also stated Petitioner was denied CDC benefits due to not having a need for CDC benefits. MDHHS testimony acknowledged this basis for denial was improper.

<sup>5</sup> Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

In the FAP analysis, Petitioner gross monthly wages were \$3,880 and monthly child support was \$122. The same policies applied to calculate FAP eligibility equally apply to CDC benefits. Thus, Petitioner's countable gross monthly income for CDC is \$4,002. As MDHHS did in determining FAP eligibility, Petitioner's actual gross income was calculated to be \$3,893. Exhibit A, p. 49. For purposes of this decision, it will be accepted that Petitioner's gross monthly income for CDC benefits is \$3,893.

Petitioner's group size for CDC is two persons.<sup>6</sup> For a group size of two, the income level for entry into the CDC program is \$3,286. RFT 270 (January 2024) p. 1. Petitioner's income exceeds the income limit. Thus, MDHHS properly denied Petitioner's CDC application due to excess income.

Petitioner lastly requested a hearing to dispute a denial of SER-Energy eligibility. Exhibit A, pp. 4-6. MDHHS credibly testified that Petitioner applied for SER-Energy on October 11, 2024. MDHHS also credibly testified that a State Emergency Relief Decision Notice dated October 14, 2024, stated Petitioner was denied SER-Energy due to excess income.

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.*

The SER-energy income standard limit for a two-person group is \$2,465. ERM 208 (October 2023) p. 8. To calculate net income, MDHHS is to apply a 25% credit to wages. ERM 206 (April 2024) p. 1.

Unfortunately, evidence of Petitioner's income from October 2024 and November 2024 was not presented. Evidence of the income calculated by MDHHS for SER-Energy was not presented. Thus, it cannot be determined if MDHHS properly denied Petitioner's application for SER-Energy. Because it is MDHHS's burden of proof to establish it acted correctly, Petitioner is entitled to a reprocessing of SER eligibility.

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<sup>6</sup> See BEM 205 for determining CDC group composition.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's applications for FAP and CDC benefits dated July 31, 2024. Concerning FAP and CDC 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 failed to establish it properly 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 and initiate reprocessing of Petitioner's SER-Energy application dated [REDACTED] 2024; and
- (2) Issue notice and supplements, 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

