



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

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DIRECTOR

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Date Mailed: November 26, 2024  
MOAHR Docket No.: 24-011886  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Danielle R. Harkness**

**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 on November 19, 2024. Petitioner, ██████████, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Rolando Gomez, Hearings Coordinator/Lead Assistance Payment Worker.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-42.

**ISSUE**

Did the Department properly deny Petitioner's application for CDC (Child Development and Care) Food Assistance Program (FAP), Family Independence Program (FIP) Medical Assistance (MA), Cash Assistance, and State Emergency Relief (SER)?

**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 ██████████ 2024, Petitioner applied for CDC, FAP, FIP, MA, Cash Assistance, and SER benefits and reported that Petitioner was a Michigan resident, but that Petitioner was homeless.
2. The mailing address that Petitioner listed on his ██████████ 2024, application belongs to relatives of his wife.
3. At the time of his ██████████ 2024, application, Petitioner reported to the Department that he had a home in ██████████ MI but sold it before leaving Michigan.

4. On Petitioner's ██████████ 2024, application, Petitioner reported that Petitioner has "...a severe autoimmune condition that requires me to travel between states to coastal areas for symptom relief. Due to the temporary and transient nature of our medical needs, my family and I cannot establish residency in any other state. Despite my out-of-state travel, I maintain Michigan residency and request continued access to services such as health care and disability benefits." Petitioner further stated, "My travel is temporary and essential for my health...Note that we are not currently within the state but will return once medical science is able to provide treatment or cure for this illness, currently there is none and my life is endangered by this condition." (Exhibit A, p. 16).
5. On ██████████ 2024, Petitioner completed an interview with the Department and reported that Petitioner lives on a boat in a marina in ██████████ with Petitioner's wife and son.
6. On ██████████ 2024, a Notice of Case Action was issued to Petitioner denying Petitioner's request for CDC, FAP, and Cash Assistance for failing to meet Michigan residency requirements.
7. On October 8, 2024, an SER Decision Notice was issued to Petitioner denying Petitioner's request for cooking gas and home repairs for failing to meet Michigan residency requirements.
8. On October 8, 2024, a Health Care Coverage Determination Notice was issued to Petitioner denying Petitioner's request for health care coverage because Petitioner "failed to verify or allow the department to verify information necessary to determine eligibility for this program." (*Id.* at 31-37).
9. On October 14, 2024, Petitioner filed a hearing request contesting the Department's denials.

### **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).

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 program is implemented by 45 CFR 98.1-99.33. The Department administers the 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.

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. 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.

The FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

The SDA program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The 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.

In this case, Petitioner is disputing a CDC, FAP, FIP, MA, SDA, and SER benefit denial due to Petitioner's failure to meet Michigan residency requirements.

On [REDACTED] 2024, Petitioner applied for CDC, FAP, FIP, MA, Cash Assistance, and SER benefits and reported that Petitioner was a Michigan resident, but that Petitioner was homeless. The mailing address that Petitioner listed on his [REDACTED], 2024, application belongs to relatives of his wife. Petitioner had a home in Petoskey, MI but sold it before leaving Michigan. On Petitioner's [REDACTED] 2024, application, Petitioner reported that Petitioner has "...a severe autoimmune condition that requires me to travel between states to coastal areas for symptom relief. Due to the temporary and transient nature of our medical needs, my family and I cannot establish residency in any other state. Despite my out-of-state travel, I maintain Michigan residency and request continued access to services such as health care and disability benefits." Petitioner further stated, "My travel is temporary and essential for my health...Note that we are not currently within the state but will return once medical science is able to provide treatment or cure for this illness, currently there is none and my life is endangered by this condition." (Exhibit A, p. 16).

On October 8, 2024, Petitioner completed an interview with the Department and reported that Petitioner lives on a boat in a marina in [REDACTED] with Petitioner's wife and son.

To be eligible, a person must be a Michigan resident. Bridges uses the requirements in the Residence section in this item to determine if a person is a Michigan resident. BEM 220, December 1, 2022. p. 1.

#### FIP, SDA

The applicable policy for FIP and SDA benefits states that a person is a resident if all of the following apply:

- Is not receiving assistance from another state.
- Is living in Michigan, except for a temporary absence.
- Intends to remain in the state permanently or indefinitely.

*Id.*

Accept an individual's statement of intent to remain in Michigan unless the statement is inconsistent or conflicts with known facts. *Id.* at 6. If an individual is temporarily absent from Michigan, verify the intent to return as follows:

- Evidence that rent, property taxes, utilities or house payments in Michigan are being paid.
- Evidence that a local job is being held for the individual.
- Evidence that the reason for the absence implies intent to remain a Michigan resident.

*Id.* at 7-8.

At the hearing, the department representative testified that there is no evidence that Petitioner intends to remain in the state of Michigan permanently or indefinitely as Petitioner is not currently living in Michigan, he has sold his house in Michigan, and there is no evidence that Petitioner's absence is temporary. Petitioner acknowledged that he is currently living on a boat on the east coast and is unable to return to Michigan at this time because, allegedly, there is no treatment or cure for his illness. The undersigned finds that Petitioner provided no evidence to show that he is a Michigan resident based on Petitioner's own statement that he is using a relative's mailing address in the state of Michigan but is not living in the state of Michigan because of his illness. Therefore, the Department properly determined that Petitioner does not meet the residency requirements for FIP and SDA benefits.

#### CDC, FAP, MA

The applicable policy for CDC and FAP benefits states that a person is considered a resident while living in Michigan for any purpose other than a vacation, even if there is no intent to remain in the state permanently or indefinitely. Eligible persons may include:

- Persons who entered the state with a job commitment or to seek employment; and
- Students (for FAP only, this includes students living at home during a school break.)

*Id.*

For CDC, FAP, FIP, and SDA benefits, verification sources include:

- Driver's license.
- Other ID which provides a name and address.
- Mortgage or rent receipt.
- Utility bill.
- Collateral contact with a person who knows the individual's living arrangement.

*Id. at 7.*

For FAP, a **homeless person** is an individual who lacks a fixed and regular nighttime dwelling **or** whose temporary nighttime dwelling is one of the following:

- Supervised private or public shelter for the homeless.
- Halfway house or similar facility to accommodate persons released from institutions.
- Home of another person.
- Place not designed or ordinarily used as a dwelling (for example, a building entrance or hallway, bus station, park, campsite, vehicle).

*Id.*

CDC may be approved in the homeless eligibility category when a child is considered to be homeless based on the McKinney-Vento Homeless Assistance Act of 1987, as amended 2015.

**Note:** P/SP need reason requirements must also be met; see *need* in this policy item.

Examples of a child being homeless are:

- Sharing housing due to economic hardship or loss of housing.
- Living in motels, hotels, trailer parks, or campgrounds due to lack of alternative accommodations.
- Living in emergency or transitional shelters.
- Children whose primary nighttime residence is not ordinarily used as a regular sleeping accommodation (for example park benches, etc.)
- Living in cars, parks, public spaces, abandoned buildings, substandard housing, bus or train stations.

Below are some questions that may be used to determine if a child is homeless:

- How long have you been living with others? Is this a temporary situation?
- Are you sharing housing due to loss of housing? Economic hardship? Other?

- Is your name on the lease? Could you be asked to leave at any time?
- Where would you live if you were not sharing housing?

Eligibility based on the homeless category does not need to be verified. Verification of need is required.

BEM 703, October 1, 2024, p. 15.

The applicable policy for MA benefits states that a Michigan resident is an individual who is living in Michigan except for a temporary absence. Residency continues for an individual who is temporarily absent from Michigan or intends to return to Michigan when the purpose of the absence has been accomplished. *Id.* at 2.

At the hearing, the Department representative testified that at the time of Petitioner's [REDACTED] 2024, application, Petitioner was not physically living in Michigan and that Petitioner had sold his home in [REDACTED] Michigan and resides on a boat on the east coast. Therefore, the Department determined that Petitioner was not a Michigan resident because he did not live in Michigan. No evidence was presented to show that Petitioner was living in Michigan at the time of his [REDACTED] 2024, application. As to Petitioner stating on his [REDACTED] 2024, application that he and his family are homeless, no evidence was provided to show that Petitioner and his family "lack a fixed and regular nighttime dwelling" pursuant to Department policy because Petitioner acknowledged that he and his family are living on a boat on the east coast, and he is unable to return to Michigan because there is no treatment or cure for his illness. Therefore, the Department properly determined that Petitioner does not meet the residency requirements for FAP, CDC, and MA benefits.

### SER

The applicable policy for SER benefits states that presence in Michigan, not permanent residence, is required for SER eligibility. ERM 202, October 1, 2024, p. 1.

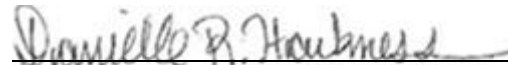
At the time of his application for SER, Petitioner acknowledged that he is not physically present in Michigan. Therefore, Petitioner does not meet the residency requirements for SER benefits.

**DECISION AND ORDER**

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 failed to act in accordance with Department policy when it denied Petitioner's application for FAP, FIP, CDC, MA, SDA, and SER benefits.

Accordingly, the Department's decision is **AFFIRMED**.

DH/pt



**Danielle R. Harkness**  
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 hearing 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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**Interested Parties**

BSC2  
L Brewer-Walraven  
C Leonard  
M Vogel  
M Holden  
B Cabanaw  
N Denson-Sogbaka  
B Sanborn  
M. Schaefer  
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**Via-First Class Mail and  
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**Petitioner**

[REDACTED]  
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