



GRETCHEN WHITMER  
GOVERNOR

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

Date Mailed: January 16, 2025  
MOAHR Docket No.: 24-013160  
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 hearing was held via Microsoft Teams on January 6, 2025. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Marcella Towns, hearings coordinator.

**ISSUES**

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

The second issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER) concerning rent.

The third issue is whether MDHHS properly denied Petitioner's application for SER concerning 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. As of October 2024, Petitioner was an ongoing FAP benefit recipient as a member of a 2-person benefit group which included her minor child.
2. As of October 2024, Petitioner and her minor child were under 60 years of age, not disabled, and not a disabled veteran. Also, neither Petitioner nor her child

received Family Independence (FIP), State Disability Assistance (SDA), or Supplemental Security Income (SSI) benefits.

3. As of October 2024, Petitioner received \$506 in monthly child support the previous three calendar months.
4. On [REDACTED] 2024, Petitioner applied for SER seeking assistance for rent and energy services.
5. On October 22, 2024, MDHHS denied SER-Energy due to Petitioner exceeding the income limit.
6. As of October 2024, Petitioner began employment.
7. On October 25, 2024, MDHHS terminated Petitioner's FAP eligibility beginning December 2024 due to excess gross income.
8. On [REDACTED] 2024, Petitioner applied for SER seeking assistance for rent and energy services.
9. On October 25, 2024, MDHHS denied Petitioner's SER-Relocation application due to the income copayment exceeding the amount requested.
10. As of October 25, 2024, Petitioner needed to pay \$1,780.17 to her landlord to avoid eviction.
11. On November 8, 2024, Petitioner received \$845.28 in gross biweekly wages.
12. On November 22, 2024, Petitioner received \$1,671.26 in gross biweekly wages which was representative of Petitioner's future wages.
13. On November 25, 2024, Petitioner requested a hearing to dispute the termination of FAP benefits. Petitioner also disputed the denial for SER- Energy and SER- Relocation.

### **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 BAM, BEM, and RFT.

Petitioner requested a hearing, in part, to dispute a termination of FAP benefits. Exhibit A, pp. 3-5. A Notice of Case Action dated October 25, 2024, stated that Petitioner's FAP

eligibility was terminated beginning December 2024 due to excess gross income. Exhibit A, pp. 12-15.

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.

It was not disputed that Petitioner resided in a household with a minor child. The evidence suggested that Petitioner and her child were neither senior, disabled, nor a disabled veteran. The evidence also suggested that neither Petitioner nor her child were recipients of FIP, SDA, or SSI. As a 2-person FAP group with no SDV members, or recipients of FIP, SDA and/or SSI, the group's income must fall below 200% of the FPL to establish FAP eligibility.<sup>1</sup>

MDHHS projected Petitioner's gross monthly income to be \$4,308 beginning December 2024. Exhibit A, p. 13. MDHHS projected Petitioner's income on October 25, 2024: the date of termination notice. MDHHS failed to explain how Petitioner's income was projected. Though some income documentation was presented, none of it supported a projection of \$4,308 in monthly income as of October 25, 2024; nevertheless, the evidence allowed for an income projection beginning December 2024.

Petitioner received wages of \$845.28 and \$1,671.28 on November 8, and November 22, 2024. Exhibit A, p. 8 and 9. It was not disputed that Petitioner's wages of \$1,671.28 were representative of future wages. For FAP benefits, MDHHS generally counts gross wages.<sup>2</sup> BEM 501 (July 2017), p. 7. MDHHS converts stable or fluctuating biweekly income to a monthly amount by multiplying the average income by 2.15. BEM 505 (October 2023) p. 8. Multiplying Petitioner's expected biweekly gross wages of \$1,671.28 by 2.15 results in a total gross monthly income of \$3,593 (dropping cents).<sup>3</sup>

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<sup>1</sup> See BEM 212 for determining group size 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.

<sup>3</sup> A FAP budget for December 2024 calculated wages of \$3,634. For purposes of this decision, the lower amount (and more favorable amount for Petitioner) of \$3,593 will be accepted as correct.

Petitioner also received child support income. For child support income, MDHHS is to use the average of child support payments received in the past three calendar months unless changes are expected. BEM 505 (October 2023) p. 4. MDHHS testified that Petitioner received \$506 in monthly child support every month from July through September 2024: there was no evidence of an expected change. Adding Petitioner's countable wages and child support results in a total countable income of \$4,099.

The monthly gross income limit for a 2-person non-traditional categorically eligible FAP group is \$3,408.<sup>4</sup> RFT 250 (October 2024) p. 1. Petitioner's benefit group's countable gross income exceeded the gross income limit. Thus, MDHHS properly terminated Petitioner's FAP eligibility.

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 also requested a hearing to dispute a denial of SER requesting funds for a rent arrearage (aka SER-Relocation). Exhibit A, pp. 3-5. Petitioner applied for SER-Relocation on October 25, 2024. A State Emergency Relief Decision Notice dated October 25, 2024, stated that Petitioner was denied SER for rent arrearage due to the copayment exceeding the amount requested. Exhibit A, pp. 17-19.

A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the Income Needs Standard. BEM 208 (October 2024) p. 1. Income that is more than the basic monthly Income Needs Standard for the number of group members must be deducted from the cost of resolving the emergency. *Id.* This is the income copayment. *Id.* MDHHS is to not authorize SER payment unless it will resolve the emergency. *Id.*, p. 1.

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. The Income Needs Standard for a group size of two persons is \$500. ERM 208 (October 2024) p. 6. The maximum SER rent payment for a two-person group is \$520. ERM 303 (October 2024) p. 7.

A circuit court judgment verified that Petitioner owed \$3,080.17 in SER funds for rent arrearage in November 2024. Exhibit A, p. 6. Petitioner acknowledged paying \$1,300 to her landlord after going to court. It was not disputed that the amount to prevent eviction was \$1,780.17.

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<sup>4</sup> The Notice of Case Action dated October 25, 2024, stated that Petitioner exceeded the gross income limit of \$2,215. Exhibit A, p. 13. A gross income limit of \$2,215 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.

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 October 25 through November 24, 2024.

Petitioner received wages of \$845.28 and \$1,671.28 on November 8, and November 22, 2024. Exhibit A, p. 8 and 9. Thus, Petitioner received wages totaling \$2,516.56 during the countable income period. MDHHS applies a 25% withholding tax credit to wages which results in countable net income of \$1,887.42.

Petitioner also received child support income. Specific dates of child support income were not provided, but it was not disputed that Petitioner received \$506 in monthly child support. Adding Petitioner's countable wages and child support results in a total countable income of \$2,393.42.<sup>5</sup> Subtracting the Income Needs Standard of \$500 from the countable income results in an income copayment of \$1,893.42. Because the income copayment exceeds the requested amount of \$1,780.17, MDHHS properly denied Petitioner's request for SER for rent.

Petitioner lastly requested a hearing to dispute a denial of SER requesting energy services. Petitioner applied for SER-Energy on October 25, 2024. MDHHS testified that Petitioner was denied SER-Energy due to excess income.

There are no income copayments for SER- Energy. ERM 208 (October 2024) 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.*

The SER-energy income standard limit for a two-person group is \$2,555. ERM 208 (October 2024) p. 8. As calculated above, Petitioner's countable net income of \$2,393.42 is less than the income limit for SER-Energy. Thus, MDHHS failed to establish that it properly denied Petitioner's SER-Energy application for the reason of excess income. As a result, MDHHS will be ordered to reprocess Petitioner's SER-Energy eligibility.<sup>6</sup>

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<sup>5</sup> MDHHS testified the SER income budget factored \$3,380.80 in wages and unearned income of \$674.67. After applying the 25% withholding taxes, the result was a countable net income of \$3,210.67. Because MDHHS failed to explain how the income was calculated, the net income based on presented evidence will be accepted as proper.

<sup>6</sup> The evidence did not establish that MDHHS erred in determining income; the evidence only established that MDHHS failed to establish that income was properly calculated. Thus, a reprocessing may result in the same outcome.

**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 FAP eligibility due to excess gross income beginning December 2024. MDHHS also properly denied Petitioner's SER application dated October 25, 2024, request SER-Relocation. Concerning FAP and SER-Relocation, the actions of 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 application for SER-Energy. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Petitioner's SER-Energy application dated October 25, 2024 subject to the finding that MDHHS failed to establish it properly calculated Petitioner's income; 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

**Via-Electronic Mail :**

**DHHS**

Susan Noel  
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26355 Michigan Ave  
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**Interested Parties**

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MOAHR

**Via-First Class Mail :**

**Petitioner**

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