



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

██████████
████████████████████
████████████████████

Date Mailed: May 16, 2017
MAHS Docket No.: 17-003947
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a three-way telephone hearing was held on May 4, 2017, from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's State Emergency Relief (SER) application for heat and electricity?

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 1, 2017, Petitioner applied for SER assistance with heat and electricity. [Exhibit A, pp. 3-6.]
2. In the application, Petitioner reported the following: (i) her group size is one; (ii) she is requesting heat and electricity assistance in the amount of ██████████6; (iii) she receives a gross monthly income of ██████████ in disability benefits; (iv) she is responsible for heat and electricity household expenses; and (v) did not report any other form of income expenses, such as health insurance premium, child support, etc. [Exhibit A, pp. 3-6.]

3. On March 10, 2017, the Department sent Petitioner an SER Decision Notice informing her that her SER request for heat (\$████████) and electricity (████████) was denied because her countable income is higher than the maximum amount allowed for this program. [Exhibit A, pp. 16-18.]
4. On March 17, 2017, Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, p. 2.]

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 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.

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (February 2017), p. 1. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP). ERM 301, p. 1. For energy related emergencies, the SER crisis season runs from November 1 through May 31. ERM 301, p. 1. Requests for those services will be denied June 1 through October 31. ERM 301, p. 1.

When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301, p. 2. The amount of the payment is the minimum necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. ERM 301, p. 2. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. ERM 301, p. 2. Current bills that are not subject to shutoff should not be included in the amount needed. ERM 301, p. 2.

On March 10, 2017, the Department sent Petitioner an SER Decision Notice informing her that her SER request for heat (████████) and electricity (████████) was denied because her countable income is higher than the maximum amount allowed for this program. [Exhibit A, pp. 16-18.]

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (February 2017), p. 1. Do not authorize a SER payment unless it will resolve the emergency. ERM 208, p. 1. The Department

determines eligibility or ineligibility for each SER application and service requested. ERM 208, p. 1. The worker is responsible for verifying information, certifying the eligibility results and authorizing the payment. ERM 208, p. 1.

In most cases cash assets in excess of \$50 result in an asset copayment. ERM 208, p. 1. An asset copay cannot be reduced or waived. ERM 208, p. 1.

There are no income copayments for SER energy services. ERM 208, p. 1. With respect to income, clients are either eligible or they are not. ERM 208, p. 1. For a group to be eligible for energy services, 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 standard for SER energy/LIHEAP services for the number of group members. ERM 208, p. 1. If the income exceeds the limit, the request must be denied; see Exhibit II, SER Income Need Standards for Energy Services. ERM 208, p. 1. Exhibit II, SER Income Need Standards for Energy Services, states that income limit for a family size of one is \$1,485, and \$2,002 for a family size of two. ERM 208, p. 6.

In this case, the Department presented a co-payment calculation/budget. [Exhibit A, pp. 13-14.] The Department first indicated that Petitioner's group size is actually two, not one. The Department argued that Petitioner resides with her sister, who is her caretaker, and Petitioner should have included her in the application as a household member. Petitioner disagreed. Petitioner, though, did not dispute that her sister resides with her in a house.

Determine State Emergency Relief (SER) eligibility for the group as a whole. ERM 201 (October 2015), p. 1. SER groups are the basic unit of SER eligibility. ERM 201, p. 1. Verify income, assets and potential resources of all group members. ERM 201, p. 1.

A single SER group consists of persons who occupy the same home. ERM 201, p. 1. Home means the place where the members of the SER group keep their personal belongings and sleep. ERM 201, p. 1. A home may be an apartment, a house, a mobile home, or a rented room. ERM 201, p. 1. Consider a homeless family or group of individuals as a single SER group if they previously lived together in the same home and plan to do so again when they find permanent housing. ERM 201, p. 1.

Adults and dependent children who normally live together are in the same SER group. ERM 201, p. 1. Adult is defined as either of the following: a person who is 21 years of age or older a person who is less than 21 years of age and who is not a dependent child. State Emergency Relief Glossary (ERG) 2017-001 (February 2017), p. 1. Do not include the following persons in the SER group.

- Visitors in the home who do not normally live with the SER group.
- Renters who live with the SER group, provided a fair market rental rate is paid. Include the rental income in determining the SER group's eligibility.

- The SER group's landlord, provided the group pays fair market rent to live in the home.
See the most current Fair Market Rents online at <http://www.huduser.org/portal/datasets/fmr.html>.
- A person physically present in the home who claims and verifies that they do not have any responsibility for meeting household emergencies. A person who desires exclusion on this basis has the burden of providing proof of the following:
 - The emergency does not adversely affect the person requesting exclusion.
 - The person will not benefit if the group's application for SER is approved.

Example: A group of five adults share an apartment. The group includes a husband and wife and three unrelated persons. The husband dies, and the wife applies for SER burial assistance. Exclude the other three unrelated persons from the SER group for this service.

ERM 201, pp. 1-2.

In the present case, Petitioner and her sister occupied the same home and her sister [REDACTED]. Moreover, the evidence, including Petitioner's testimony, indicated that her sister could not be excluded from the SER group. ERM 201, pp. 1-2. As such, the undersigned Administrative Law Judge (ALJ) finds that the Department properly determined that Petitioner's SER group size is two.

Next, the Department establishes the SER countable income period and determines the SER group's net countable income based on the application date and entry of income information in the data collection screens. ERM 206 (February 2017), p. 1. The SER budget computation period is 30 days. ERM 206, p. 1. This is referred to as the countable income period. ERM 206, p. 1. Verify and budget all non-excluded gross income the SER group expects to receive during the countable income period. ERM 206, p. 1. Do not prorate income. ERM 206, p. 1. This policy section means that Department will take into consideration both Petitioner and her sister's countable income.

First, the budget showed that the sister's gross earned income was [REDACTED], which comprised of her Adult Home Help Provider Income. [Exhibit A, pp. 11 and 13.] Policy, though, states that the Department applies a mandatory withholding taxes (25 percent of the gross) from the sister's income, which results in a net countable income for the sister to be [REDACTED] ([REDACTED] gross income minus [REDACTED] mandatory tax deduction). [Exhibit A, p. 13 and ERM 206, p. 5.] The undersigned finds that the Department properly calculated the sister's remaining earned income.

Second, the budget showed that it calculated Petitioner's total unearned income to be [REDACTED] from Social Security benefits, which she did not dispute. [Exhibit A, p. 13.]

Petitioner is not responsible for Medicare premiums and other income expenses. See ERM 206, pp. 4-5. Petitioner argued other expenses that she is responsible to pay for; however, these expenses cannot be deducted from her income after reviewing policy. See ERM 206, pp. 1-7. As such, the undersigned finds that the Department properly calculated the Petitioner's remaining unearned income of [REDACTED]

Now, when both amounts are added together, the resulting net countable income is [REDACTED] of sister's earned income plus [REDACTED] of Petitioner's unearned income.) [Exhibit A, pp. 13-14.]

Based on the above information, Petitioner is ineligible for SER assistance with heat and electricity. The SER group's combined monthly net income of [REDACTED] exceeds the standard of [REDACTED] for an SER energy/LIHEAP services group size of two. ERM 208, pp. 1 and 6. As such, the Department properly denied the SER application in accordance with Department policy.


It should be noted that the Department provided additional testimony to include assets in the budget calculation and an income need standard deduction. [Exhibit A, p. 14.] However, these calculations are not relevant in this case. As stated above, for a group to be eligible for energy services, which is heat and electricity in this instance, 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 standard for SER energy/LIHEAP services for the number of group members. ERM 208, p.1. This is the applicable policy section for this application denial and this policy section makes no mention of adding in assets or applying a [REDACTED] income need standard deduction. The undersigned is only determining whether Petitioner's combined monthly net income of [REDACTED] exceeded the SER income need standard of [REDACTED] for a group size of two, which it did in this instance. ERM 103, p. 4; ERM 208, pp. 1 and 6; and ERM 301, p. 5.

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 acted in accordance with Department policy when it properly denied Petitioner's SER application for heat and electricity effective March 10, 2017 (application dated March 1, 2017).

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

EF/tm



Eric J. Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC: [REDACTED]
[REDACTED]