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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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Date Mailed: May 22, 2018
MAHS Docket No.: 18-003514
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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, an in-person hearing was held on May 17, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Candice Benns.

ISSUE

Did the Department properly deny Petitioner's application for 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 March 14, 2018, Petitioner submitted an application for SER to the Department for assistance with her heat and electric utilities.
2. Petitioner had a past-due balance for electricity in the amount of \$██████████ and a past-due balance of \$██████████ for gas with DTE Energy as of March 19, 2018.
3. Petitioner's only income is \$██████████ per month from renting a room in her home.
4. At the time of application, Petitioner had \$██████████ in a savings account and \$██████████ in a checking account at ██████████; Petitioner noted on her application that there was a \$██████████ rental payment check pending at the time of her submission.

5. On March 20, 2018, the Department issued an SER Decision Notice informing Petitioner that her SER application had been denied because she had an income or asset copayment greater than or equal to the amount needed to resolve her emergency.
6. On March 29, 2018, Petitioner submitted a hearing request disputing the denial of her SER application.

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.

In this case, the Department denied Petitioner's SER application for having an income or asset copayment greater than or equal to the amount needed to resolve her emergency. Petitioner argues that there is no income copayment pursuant to Department policy and that the Department did not properly calculate the value of her assets.

ERM 208 provides that there are no income copayments for SER energy services. ERM 208 (October 2017), p. 1. With respect to income, clients are either eligible or they are not. *Id.* 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. *Id.* If the income exceeds the limit, the request must be denied. *Id.* Petitioner's SER group size of one has an Income Need Standard for Energy/LIHEAP Services of \$1,507.00 effective October 1, 2017. ERM 208, p. 6. Therefore, Petitioner is correct in her assertion that there is no income copayment. Furthermore, Petitioner is eligible based upon the Income Need Standard because she only receives \$ [REDACTED] gross per month in rental income, well below the need threshold of \$1,507.00 per month.

Turning to the issue of the asset copayment, Petitioner argues that the Department did not properly calculate the total value of her assets based upon several factors. First, Petitioner argues that based upon policy, the Department cannot consider her income as an asset pursuant to policy. Policy provides that all assets are included except for certain things such as "[t]he budgetable portion of income deposited into a checking or savings account. Do **not** count the same funds as both income and an asset in the same month." ERM 205 (October 2015), p. 3. This means that if Petitioner receives

\$ [REDACTED] rental income in March, that money is considered income in March; however, if any money is left over from that income in April, that money is then considered an asset for April. In this case, Petitioner admits that she did not give a detailed account statement for either of her bank accounts to the Department but notes that she was never asked to provide one. Petitioner provided and the Department appeared content with the Account Summary page. Without a detailed account statement, it is impossible to determine exactly how much of the money in Petitioner's accounts should be considered income and how much should be considered an asset. The Department provided no evidence to help clarify this issue or to show that it had sought clarification or verification from Petitioner pursuant to policy. ERM 205, p. 6. Therefore, the Department has not met its burden of proof in establishing an asset copayment greater than or equal to the amount needed to resolve the emergency.

Next, Petitioner argues that because the income she receives is rental income, there are expenses associated with renting a room of her home which were not considered but should have been. In determining SER eligibility, the Department evaluates a 30-day period, or the countable income period. ERM 206 (February 2017), p. 1. The first day of the countable income period is the date the local office receives a signed application for SER. *Id.* The Department is required to verify and budget all non-excluded gross income that the SER group expects to receive during the countable income period and it is not prorated. *Id.* Net income from employment or self-employment must be determined by deducting allowable expenses of employment from the gross amount received. ERM 206, p. 5. SER does not allow deductions for garnishment actions or expenses of **producing** self-employment income (such as capital expenditures, labor costs, transportation costs while on the job, materials, loan and property payments, taxes, insurance, etc.). *Id.* Therefore, the Department acted appropriately when it did not consider any expenses of Petitioner's rental income.

Finally, Petitioner argued that she had good cause for her failure to make minimum payments towards her utility bills. SER does not assist groups who fail to use their available money to prevent a shelter, energy, or utility emergency. ERM 204 (February 2017), p. 1. A client-caused emergency is when an SER group fails to pay required payments for the six-month period prior to the month of application. *Id.* Required payments are actual shelter costs or required energy and/or utility payments outlined in ERM 301 and 302. *Id.* The payments are based on the number of group members in the home during the payment period. *Id.* Good cause may exist as a basis for an applicant's failure to prevent an emergency in energy or utility services cases. *Id.* In this case, the Department did not assert that Petitioner created her own emergency. Instead the Department asserted she had an income or asset copayment greater than or equal to the amount needed to resolve her emergency. Therefore, this argument and policy is inapplicable to this case.

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 did not act in accordance with Department policy when it found an income copayment for Petitioner's energy services; and it failed to satisfy its burden of showing that it acted in

accordance with Department policy when it denied Petitioner's application based upon an asset copayment.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate and reprocess Petitioner's March 14, 2018, application for SER;
2. If Petitioner is eligible for SER benefits, issue supplements to Petitioner or on Petitioner's behalf for benefits not previously received; and
3. Notify Petitioner in writing of its decision.



AM/

Amanda M. T. Marler
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) 763-0155; 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

Deborah Little
MDHHS-Wayne-49-Hearings

Petitioner

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