



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
LANSING

ORLENE HAWKS  
DIRECTOR

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Date Mailed: January 14, 2019  
MAHS Docket No.: 18-012042  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE:** Janice Spodarek

### **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 January 9, 2019, from Lansing, Michigan. Petitioner personally appeared and testified. The Department of Health and Human Services (Department) was represented by Kathleen Scorpio-Butina, HF.

### **ISSUE**

Did the Department properly deny Petitioner's request for ERM assistance with his water utility bill?

### **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 ██████████ 2018, Petitioner filed an ERM assistance application requesting assistance with his water bill in the amount of \$██████████.
2. Respondent ran an ERM budget taking into account Petitioner's assets and income and determined that Petitioner had available ██████████. Petitioner's maximum assistance and copay under policy was \$██████████.
3. On November 5, 2018, Respondent denied Petitioner's request for assistance on the grounds that his "income/asset copayment is equal to or greater than the amount needed to resolve the emergency." Exhibit C.

4. On November 16, 2018, Petitioner filed a hearing request.

### **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, Petitioner spent much time at the administrative hearing testifying regarding his vehicles, and their value. However, Petitioner's testimony regarding these vehicles was irrelevant to this review. The purview of an administrative law judge (ALJ) is to review the Department's action and to make a determination if those actions are in compliance with Department policy, and not contrary to law at the time Respondent made the determination. The ALJ must base the hearing decision on the preponderance of the evidence offered at the hearing or otherwise included in the record.

Petitioner has the burden of proof, by a preponderance of evidence, to establish eligibility for the program(s) in dispute. This means that Petitioner must bring forth relevant evidence to show eligibility that is contrary to the action taken by Respondent, and likewise, that Respondent's actions were not supported by credible and substantial evidence. Petitioner must also bring forth evidence of law, policy or rules that would entitle Petitioner to the relief or benefits for which Petitioner complains.

Here, under ERM 103, Petitioner's maximum assistance for the water bill is \$ [REDACTED]. Petitioner had adequate funds available to make this payment. As indicated on the denial notice, Petitioner's income/asset copayment is equal to or greater than the amount needed to resolve the emergency. As such, under ERM 103 under these facts Petitioner has no eligibility. Petitioner did not offer any law or policy that would entitle him to prevail. As such, Respondent's action must be upheld.

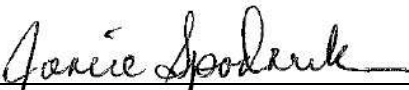
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied Petitioner's SER application for a water utility.

**DECISION AND ORDER**

Accordingly, the Department's decision is

**AFFIRMED.**

JS/dh

  
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**Janice Spodarek**  
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**

Lauren Casper  
27690 Van Dyke  
Warren, MI 48093

Macomb County, DHHS

BSC4 via electronic mail

T. Bair via electronic mail

E. Holzhausen via electronic mail

**Petitioner**

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