



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: February 15, 2019
MAHS Docket No.: 18-013873
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 February 14, 2019, from Lansing, Michigan. Petitioner was represented by [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Eric Murphy, Eligibility Specialist.

Respondent's Exhibit A pages 1-11 were admitted as evidence.

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 [REDACTED] 2018, Petitioner submitted an application for State Emergency Relief (SER) for a heat/natural gas bill, in the amount of \$392.73.
2. The Department determined that Petitioner had no payment history within the last six months.
3. On [REDACTED] 2018, the Department sent Petitioner a DHS-1419, State Emergency Relief Decision Notice, indicating that Petitioner's application for SER was being denied because Petitioner's shortfall amount (unmet required payments) is equal to or greater than amount needed to resolve the emergency.

4. On December 21, 2018, Petitioner filed a Request for Hearing to contest the Department's negative action.
5. On January 11, 2019, the Michigan Administrative Hearing system received a copy of the Hearing summary and attached documents.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Bridges Administrative Manual (BAM 600).

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.

Pertinent Department policy indicates:

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.

- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2017), pp 3-4.

The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

Applicants must complete and sign one of the following applications in order to apply for State Emergency Relief (SER):

- DHS-1514, Application for State Emergency Relief.
- MDHHS-1171, Assistance Application and the MDHHS-1171- SER, State Emergency Relief (SER) supplemental form.
- A MI Bridges online application in which an SER service has been requested. Applicants may file an application for SER in any county in Michigan. An application submitted through MI Bridges for an SER covered service is considered a complete application, no additional application is required. Incomplete applications may be filed, but must be completed before authorizing SER. State Emergency Relief Manual (ERM) 103, page 1

Net unearned income must be determined by deducting all of the following from the gross amount received:

- Mandatory withholding taxes.
- Court ordered child support paid, including arrears, but not more than the amount ordered by the court. No deduction is made for paid, voluntary child support.
- Payments for health insurance.
- Medicare premiums that will not be reimbursed. (ERM 206)

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 standards found in the SER Income Need Standards for Non-Energy Services at the end of this item.

Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. This is the income copayment.

There are no income copayments for SER energy services. With respect to income, clients are either eligible or they are not. 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. If the income exceeds the limit, the request must be denied; see SER Income Need Standards for Energy Services at the end of this item. (ERM 208, page 1)(Emphasis Added)

The income and asset copayments combined together determine the SER group's total copayment.

The total copayment is the amount the SER group must pay toward their emergency. Copayment amounts are deducted from the cost of resolving the emergency. (ERM 208, page 2)


In the instant case, Petitioner receives \$ [REDACTED] per month in countable net income. Petitioner was given a good cause amount deduction of \$270.00 per month for a total actual payment obligation of \$120.00 per month. \$120.00 per month for six months = \$720.00 final shortfall (payment obligation) which Petitioner did not make. Petitioner's co-payment would have resolved the emergency if Petitioner had paid it. Under the circumstances, the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with Department policy when it determined that Petitioner was not eligible to receive State Emergency Relief because he had not paid his shortfall obligation. The Department's action must be upheld under the circumstances.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied Petitioner's application for State Emergency Relief based upon its determination that Petitioner's income copayment is equal to or greater than the amount needed to resolve the emergency.

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

LL/hb



Landis Lain
Administrative Law Judge
for Robert Gordon, 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

Jeanette Cowens
2524 Clark Street
Detroit, MI 48209

Wayne County (District 41), DHHS

BSC4 via electronic mail

T. Bair via electronic mail

E. Holzhausen via electronic mail

Petitioner

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]