



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: April 29, 2019
MOAHR Docket No.: 19-001619
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 April 24, 2019, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Brenda Drewnicki, Hearing Facilitator. Department Exhibit 1, pp. 1-12 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's State Emergency Relief (SER) application due to excess income?

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] 2019, Petitioner applied for SER seek assistance with an outstanding electric bill.
2. On February 14, 2019, a State Emergency Relief Denial Notice was sent to Petitioner informing her that her application was denied because her countable income is high that the maximum amount allowed for this program. (Ex.1, 9)
3. On February 19, 2019, Petitioner requested hearing disputing the denial of SER.
4. Petitioner is responsible for Medicare premiums.

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.

Unearned Income

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

In this case, the Department failed to deduct Petitioner's Medicare premiums when determining her income eligibility for SER. ERM 206 The Department acknowledged this error at hearing and agreed to reinstate and reprocess Petitioner's SER application going back to the date of application and deduct her Medicare premiums.

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 denied Petitioner's SER application.

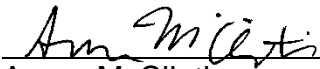
DECISION AND ORDER

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 application for SER going back to the date of application.
2. Award SER benefits if Petitioner is found eligible.

AM/nr



Aaron McClintic
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 Office 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

DHHS

Vivian Worden
21885 Dunham Road
Clinton Twp., MI
48036

Macomb 12 County DHHS- via electronic
mail

BSC4- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

Petitioner

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