



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: May 21, 2019
MOAHR Docket No.: 19-003389
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 3-way telephone hearing was held on May 15, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Natalie McLaurin, hearing facilitator.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER) concerning non-energy related repairs.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In 2018, MDHHS issued \$[REDACTED] in SER for non-energy-related repairs.¹
2. On March 1, 2019, Petitioner applied for SER for assistance with a water heater and sink repair. Exhibit A, pp. 4-16.
3. On an unspecified date, MDHHS received verification that Petitioner's property insurance cost \$[REDACTED] year.
4. On an unspecified date, MDHHS calculated Petitioner's housing affordability by factoring \$[REDACTED] month in housing insurance. Exhibit A, p. 21.

¹ The repair was for extermination services.

5. On March 8, 2019, MDHHS denied Petitioner's application due to housing not being affordable. Exhibit A, pp. 17-19.
6. On March 28, 2019, Petitioner requested a hearing to dispute the denial of non-energy home repairs. Exhibit A, pp. 2-3.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute a denial of non-energy home repairs. Petitioner specifically sought assistance for plumbing repairs and hot water heater. MDHHS presented a State Emergency Relief Decision Notice stating that Petitioner's application was denied due to housing costs not being affordable.

Non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement. ERM 304 (October 2018), p. 1. Examples of non-energy-related repairs include repairs to the basic structure and hot water heater repairs.

A requirement to approval of non-energy-related repairs is that the ongoing cost of maintaining the home be affordable to the SER group (see ERM 207). *Id.* An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. ERM 207 (October 2015) p. 1. MDHHS is to deny SER if the group does not have sufficient income to meet their total housing obligation. *Id.*

Total housing obligation means the total amount that the SER group must pay for rent, house payment, lot rent, property taxes and required insurance payments. If no utilities are included in the housing obligation, the total housing obligation cannot exceed 75% of the group's total net countable income. *Id.*, p. 2. The 75% figure increases up to 100%, depending on which utilities are included in the client's housing obligation. *Id.*

In determining Petitioner's housing affordability, MDHHS factored \$0 mortgage, \$[REDACTED] month in property taxes, and \$[REDACTED] month in property insurance. MDHHS factored a monthly income of \$[REDACTED] for Petitioner. Presumably, no utilities are included in Petitioner's monthly housing obligation as she appears to be a homeowner. MDHHS multiplied Petitioner's monthly income by 75% (due to no utilities being included in the monthly obligation) to calculate a \$[REDACTED] adjusted countable net income. MDHHS added Petitioner's monthly property taxes and insurance to determine a \$[REDACTED] monthly housing obligation. Because Petitioner's housing obligations exceeded her adjusted gross income, MDHHS denied Petitioner's SER application.

MDHHS committed two errors in determining Petitioner's housing obligation. First, Petitioner's property insurance does not appear to be required; this conclusion is based on Petitioner having no known mortgage or other debt on her home. Without a mortgage or other debt, property insurance is an optional expense. Notably, MDHHS states property insurance is only to be factored if a *required* expense. MDHHS erred by including an optional expense in determining Petitioner's housing expenses. Secondly, even if property insurance costs were required payments, MDHHS improperly budgeted Petitioner's property insurance in determining housing affordability. Petitioner's housing insurance documentation clearly states that Petitioner's property insurance costs \$[REDACTED] every 12 months; MDHHS factored Petitioner's annual insurance expense as a monthly expense. Exhibit A, pp. 23-24.

Given the evidence, MDHHS erroneously determined Petitioner's housing affordability. Petitioner is entitled to a correct calculation which MDHHS will be ordered to make.

Petitioner should be warned that reconsideration of her SER application will not likely result in approval of SER. Petitioner acknowledged that she received \$[REDACTED] for non-energy-related repairs (extermination costs) in 2018. The lifetime limit on non-energy-related repairs is \$[REDACTED] ERM 304 (October 2018), p. 3. Though Petitioner appears ineligible for SER due to reaching the lifetime limits for non-energy related repairs, the denial of Petitioner's SER application cannot be affirmed because MDHHS did not deny Petitioner's SER application due to her meeting lifetime limits. Thus, MDHHS must reprocess Petitioner's SER application even though the outcome of denial will likely not change.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER application. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Register Petitioner's SER application dated March 1, 2019, requesting non-energy home repairs related to a sink and water heater;
- (2) Determine Petitioner's housing affordability subject to the finding that MDHHS erroneously factored Petitioner's property insurance costs; and
- (3) Issue an updated notice following the processing of Petitioner's application.

The actions taken by MDHHS are **REVERSED**.

CG/jaf



Christian Gardocki

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 of 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

Kathleen Verdoni
MDHHS-Saginaw-Hearings

Petitioner

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