



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] MI [REDACTED]

Date Mailed: July 30, 2019
MOAHR Docket No.: 19-006343
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 telephone hearing was held on July 24, 2019, from [REDACTED] Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Keith LaCosse, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER) requesting energy services.

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 21, 2019, Petitioner applied for SER for payment of \$1,133.10 in energy services. Petitioner reported a household that included his spouse, (hereinafter, "Spouse").
2. As of March 21, 2019, Petitioner's household received the following income which was issued in pounds (£):

Type	Amount	Payment frequency
Annuity	\$220.69	quarterly (every 3 months)
Petitioner's state pension	\$139.92/week	every 4 weeks
Spouse's state pension	\$85.85/week	every 4 weeks
Petitioner's BAE pension	\$639.76	monthly

3. As of March 21, 2019, a British pound (£1.00) was worth \$1.31 in U.S. dollars.
4. On April 5, 2019, MDHHS denied Petitioner's SER request for energy services.
5. On April 20, 2019, Petitioner received payment of his annuity.
6. On June 11, 2019, Petitioner requested a hearing to dispute the denial of SER.

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. SER policies are contained in the Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute the denial of a SER request for payment of energy services. A State Emergency Relief Decision Notice stated that Petitioner was denied SER due to excess income.

Low-income households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (March 2019) p. 1. Income of all household members is budgeted. *Id.*, p. 6. There is no income copayment for energy-related services, but the household income must be at or below the LIHEAP income limit for the group to qualify *Id.* pp. 6-7. The LIHEAP income limit for a group size of two (2) persons is \$2,058. ERM 2018 (March 2019) p. 6.

MDHHS and Petitioner each presented their own calculations of Petitioner's household income. Each calculation factored that Petitioner's group's income was issued in British pounds and converted to U.S. dollars with a multiplier of 1.31. It was not disputed that as of the date of Petitioner's SER application, a British pound was valued at \$1.31 U.S. dollars. The following amounts reflect Petitioner's undisputed income in pounds and dollars:

<u>Income source</u>	<u>Amount in pounds</u>	<u>Amount in U.S. dollars</u>
Annuity	\$220.69	\$289.10
Petitioner's state pension	\$139.92	\$183.29
Spouse's state pension	\$85.85	\$112.46
Petitioner's BAE pension	\$639.76	\$838.08

A budget presented by MDHHS verified that MDHHS calculated Petitioner's countable income to be \$2,351.78, and therefore, above the income limit. MDHHS' calculations converted each income source into a monthly amount by application of a multiplier or divisor. MDHHS presented a worksheet (Exhibit A, p. 10) listing how Petitioner's group's income was calculated:

<u>Income source</u>	<u>Amount (in \$)</u>	<u>Conversion method</u>	<u>Countable income</u>
Annuity	\$289.10/quarter	Divide by 3	\$96.37

Pet. state pension	\$183.29/week	Multiply by 4.3	\$733.92
Sp. state pension	\$112.46/week	Multiply by 4.3	\$490.32
Pet. BAE pension	\$838.08/month	None	\$838.08
Total			\$2,351.78

Petitioner presented his own worksheet explaining how he believed MDHHS should have calculated his group's income. Exhibit 1, p. 5. Petitioner contended his countable income should be \$2,021.12. Petitioner's calculations differ from MDHHS' by not applying a 4.3 conversion to weekly income; instead Petitioner contended weekly income should be multiplied by 4 to convert it to a monthly amount. Petitioner also inexplicably disregarded an annuity which was paid to him quarterly. Petitioner's method of income calculation was as follows:

Income source	Amount in pounds	Conversion method	Countable income
Annuity	\$220.69	None	\$0
Pet. state pension	\$139.92/week	Multiply by 4	\$559.68
Sp. state pension	\$85.85/week	Multiply by 4	\$343.40
Pet. BAE pension	\$639.76/month	None	\$639.76
Total			£1,542.84 (\$2,021.12)

The SER budget computation period is 30 days. ERM 206 (February 2017), p. 1. This is referred to as the countable income period (hereinafter, "CIP"). *Id.* The first day of the countable income period is the date the local office receives a signed application for SER. *Id.* MDHHS is to verify and budget all non-excluded gross income the SER group expects to receive during the countable income period. *Id.* Income is not prorated. *Id.*

Petitioner's and MDHHS' income calculation methods were each flawed. SER policy does not direct MDHHS to convert weekly income to a monthly income by multiplying it by 4.3; as MDHHS policy directs, income is not to be prorated. The only relevance of income is whether it is expected to be received by the SER group within the 30-day period starting with the application date. Petitioner testified that he received his quarterly issued annuity on April 20, 2019; as April 20, 2019, was within the countable income period, the entire income should be counted. All other incomes are presumed to have been received once during the CIP. The correct method of calculating Petitioner's income is as follows:

Income source	Amount (\$)	Was income received in CIP	Countable income
Annuity	\$289.10	Yes	\$289.10
Pet. state pension	\$733.16	Yes	\$733.16
Sp. state pension	\$449.84	Yes	\$449.84
Pet. BAE pension	\$838.08	Yes	\$838.08
Total			\$2,310.18

Petitioner may deem the applicable SER policy unfair for allowing MDHHS to count a quarterly income payment in its entirety. The applicable SER policy is not unjust because it does not always work against clients. For example, had Petitioner happen to apply on a date in which he was not expected to receive his quarterly income within 30 days, then MDHHS would not have counted it the income at all.

Though MDHHS calculated a slightly less favorable income for Petitioner's group, the amount was close. More importantly, Petitioner's correct countable income exceeded the LIHEAP income standard of \$2,058 for a 2-person group. Thus, Petitioner was ineligible for SER and MDHHS properly denied Petitioner's SER application due to excess income.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's SER application dated March 21, 2019, requesting energy services. The actions taken by MDHHS are **AFFIRMED**.

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

Via First Class Mail
Petitioner

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

Via Electronic Mail
DHHS

Kimberly Myers
MDHHS-Marquette-Hearings

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