



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]
Date Mailed: September 10, 2019
MOAHR Docket No.: 19-008378
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 September 5, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) failed to appear for the hearing despite being informed via email on the day of the hearing that it was to take place via 3-way telephone call.

ISSUE

Did the Department properly deny Petitioner's State Emergency Relief (SER) for energy services assistance?

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 July 9, 2019, the Department received a Schedule C Profit or Loss from Business Statement for Petitioner's boyfriend indicating that he had gross receipts of [REDACTED], total expenses of [REDACTED] plus [REDACTED] in expenses for using his home for his business, and a net profit of [REDACTED]
2. On July 15, 2019, the Department received Petitioner's Application for SER Energy assistance with her DTE bill; on the Application, Petitioner indicated that she received bi-weekly wages of [REDACTED] and that a household member (Petitioner's boyfriend) was self-employed earning [REDACTED]1 gross income after [REDACTED] in monthly expenses.

3. On the same day, the Department issued a Verification of Employment to Petitioner for her employment at Floods Bar and Grill.
4. On or about July 24, 2019, the Department received Petitioner's completed employment verification showing that she received a salary of [REDACTED] annually and was paid bi-weekly.
5. On the same day, the Department issued a State Emergency Relief Decision Notice (SERDN) to Petitioner informing her that her Application for energy assistance had been denied because her income exceeded the LIHEAP limits/her countable income was higher than the maximum amount allowed for the program.
6. On July 29, 2019, the Department received Petitioner's request for hearing disputing the Department's denial of her SER Application.

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's Application for SER assistance with energy services was denied because Petitioner's group had income greater than the income limits. SER assistance for energy services is available to low-income households that meet eligibility requirements. ERM 301 (March 2019), p. 1. A household may receive one SER payment for heat and one SER payment for non-heat electricity per fiscal year up to the SER cap. *Id.* In order to receive assistance, the heat or electric service for the client's current residence must be in past-due status, in threat of shut off, or already in shut-off status. ERM 301, p. 3. Payments are limited to the minimum amount necessary to prevent shut off or restore services up to the fiscal year cap. *Id.* Any payments made by the Department must restore service or allow service to continue for at least 30 calendar days. ERM 301, pp. 3-4. Any current bill which is not included in the shut-off amount is not considered. ERM 301, p. 4.

In determining SER Energy Services eligibility, all household members are considered as part of the group; and each person's income is budgeted. ERM 301, p. 6. Energy-related services do not require an income copayment; however, to qualify, the household income must be at or below the Low Income Home Energy Assistance

Program (LIHEAP) income limit for the group. ERM 301, pp. 6-7. The SER Income Need Standard for Energy/LIHEAP Services is [REDACTED] for a group size of two, effective October 1, 2018. ERM 208 (June 2019), p. 6. In energy cases, a client is eligible or not. ERM 208, p. 1. 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.

The 30-day countable income period begins on the date the Department receives the application and continues for 30 days. ERM 206 (February 2017), p. 1. Since the Department received Petitioner's Application on July 15, 2019, her countable income period extends to August 14, 2019. Once the Department determines the countable income period, the Department must then consider all non-excluded gross income that the group expects to receive during the income period. *Id.* The Department properly considered Petitioner's \$[REDACTED] in earned income for Petitioner's employment. Next, the Department considered a gross income of [REDACTED] for Petitioner's boyfriend for self-employment. Based upon the Schedule C, he had [REDACTED] of annual gross income which equals [REDACTED] monthly income. At the hearing, Petitioner disputed her boyfriend's income and indicated that because he had been injured in the winter or spring, his income was significantly reduced in 2019. Petitioner did not provide proof of his injuries and/or inability to work until late July or early August. Since the SERDN was issued on July 24, 2019, it is likely that Petitioner did not provide proof of the injury until after the Department's decision. Since the last verified income for Petitioner's boyfriend was the Schedule C prior to the Department's decision, the Department's reliance on the tax filing form was appropriate. Therefore, the total gross household income was [REDACTED].

Next, the Department must consider the applicable expenses. Earned income is permitted a 25% deduction for withholding taxes in addition to deductions for health insurance, other deductions required as a condition of employment, court ordered child support, and dependent care costs. ERM 206, p. 5. SER policy does not allow deductions for expenses of producing self-employment income such as capital expenditures, labor costs, transportation costs while on the job, materials, loan, and property payments, taxes, insurance, etc. ERM 206, p. 5. There was no evidence of deductions from Petitioner's employer, health insurance, child support, or dependent care expenses. Therefore, the only deduction applicable to Petitioner and her boyfriend is the 25% mandatory withholding taxes calculated at 25% of the gross income or [REDACTED]. After deducting the mandatory withholding taxes, the remaining household earned income is [REDACTED]. After deducting taxes and all other applicable expenses, any unearned income is added to achieve the net countable income. No evidence was presented that Petitioner had any unearned income in her household. Therefore, the Net Countable Income is [REDACTED]. After reviewing Petitioner's circumstances, her net countable income is significantly greater than the SER Income Need Standard for Energy/LIHEAP Services based upon her July 15, 2019 SER Application. Therefore,

the Department acted in accordance with Department policy in denying Petitioner's Application for SER energy assistance with electricity (energy services).

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 Energy Assistance.

DECISION AND ORDER

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

AM/tm



Amanda M. T. Marler

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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]