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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: February 7, 2020
MOAHR Docket No.: 19-013456
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 January 30, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Brittany Cheeks, specialist, and Gloria Thompson, manager.

ISSUES

The first issue is whether MDHHS properly processed Petitioner's State Emergency Relief (SER) application requesting energy assistance.

The second issue is whether MDHHS properly processed Petitioner's SER application requesting rent 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 November 4, 2019, Petitioner applied for SER seeking assistance with rent arrearage.
2. As of November 4, 2019, Petitioner owed her landlord \$160 for unspecified costs
3. As of November 4, 2019, Petitioner's household included her daughter and two grandchildren.

4. As of November 4, 2019, Petitioner's household's income included \$771 in Supplemental Security Income (SSI), \$254 in Family Independence Program (FIP) benefits, and at least \$250 in employment income.
5. On November 11, 2019, Petitioner applied for SER seeking assistance with an energy bill arrearage.
6. As of November 11, 2019, Petitioner owed \$3,811.60 to her energy provider to avoid a shut-off.
7. On November 13, 2019, MDHHS approved Petitioner for \$850 payments for heat and electricity. Each payment was subject to a \$1,055.80 copayment. MDHHS also denied Petitioner's SER request for assistance with a rent arrearage.
8. On [REDACTED], 2019, Petitioner requested a hearing to dispute the outcomes of her SER applications.

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).

On December 13, 2019, Petitioner requested a hearing to dispute a denial of SER concerning rent arrearage. Exhibit A, pp. 3-4. Petitioner applied for SER requesting assistance with a rent arrearage on November 11, 2019 (Exhibit A, pp. 39-44) and December 4, 2019 (Exhibit A, pp. 16-21).¹ In her hearing request, Petitioner did not specify which SER application's outcome she was disputing. MDHHS mailed Petitioner notice of each application's outcome on November 13, 2019 (Exhibit A, pp. 32-34) and December 13, 2019 (Exhibit A, pp. 14-15), respectively. Presumably, Petitioner was unaware of the SER decision mailed on December 13, 2019, until after she requested a hearing. Thus, Petitioner's hearing request is interpreted as a dispute over the outcome of her application dated November 11, 2019. The State Emergency Relief Decision Notice dated November 13, 2019, stated that Petitioner was denied rent assistance due to an income copayment exceeding her need amount.

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 SER Income Need Standards for Non-Energy Services. ERM 208 (November 2019) p. 1. Income that is more than the basic monthly income need standard for the number of group members

¹ MDHHS stated that Petitioner added her request for rent arrearage on November 11, 2019, as part of her application dated November 4, 2019.

must be deducted from the cost of resolving the emergency. *Id.* This is the income copayment. *Id.*

For SER, MDHHS is to verify and budget all non-excluded gross income that the SER group expects to receive during the countable income period. ERM 206 (November 2019) p. 1. The countable income period is 30 days and begins with the date of application. *Id.*

MDHHS is determine SER eligibility for the group as a whole. ERM 201 (October 2015) p. 1. Adults and dependent children who normally live together are in the same SER group. *Id.* MDHHS is to verify income, assets and potential resources of all group members. *Id.* It was not disputed that Petitioner's household and SER group consisted of 4 persons: Petitioner, her daughter, and two grandchildren.

MDHHS present an income copayment budget corresponding to Petitioner's SER application dated November 11, 2019. Exhibit A, pp. 36-37. MDHHS factored \$771 in SSI, \$411 in FIP benefits, and \$700 in employment income. After applying a 25% credit to employment income, MDHHS calculated a countable income of \$1,707.

MDHHS testimony acknowledged that Petitioner's daughter only received \$254 in monthly FIP benefits. Petitioner also testified that a portion of her monthly employment income was held up by the State of Michigan (her employer) due to a change in payroll procedures. Petitioner testified that the payroll change resulted in her receiving less than a full month of income. For purposes of this decision, Petitioner's income will be accepted to be \$250 for November 2019. Applying a 25% credit to Petitioner's employment income results in a countable income of \$187.50. Adding SSI of \$771 and FIP benefits of \$254 to Petitioner's countable income results in a total countable income of \$1,212.50.

The SER Income Need Standard for a group size of 4 person is \$755. *Id.*, p. 6. Thus, every countable income dollar above \$755 is Petitioner's income copayment. Subtracting \$755 from Petitioner's group's countable income of \$1,212.50 results in an income copayment of \$457 (dropping cents).

MDHHS is to accept the decision of the SER group regarding use of the relocation funds authorized. ERM 303 (October 2018) p. 1. The issuance amount must resolve the group's shelter emergency. *Id.* Court costs and fees may be covered by SER. *Id.* If the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied unless good cause is granted. ERM 103 (March 2019) p. 5.

A judgment from district court dated October 30, 2019, stated that Petitioner owed a total of \$160 (all in court costs), to avoid eviction. Exhibit A, p. 46. Documentary evidence of a higher need as of the date of Petitioner's hearing request date was not presented. Given the evidence, Petitioner's SER need was \$160.

Based on a need of \$160 and an income copayment of \$457, Petitioner's copayment exceeded her need. Thus, Petitioner was ineligible for SER for relocation and MDHHS properly denied Petitioner's SER application requesting assistance with rent arrearage.

Petitioner also requested a hearing on December 13, 2019, to dispute a SER determination concerning energy assistance. Exhibit A, pp. 3-4. Petitioner applied for SER requesting assistance with energy services on November 4, 2019 (Exhibit A, pp.39-44) and December 16, 2019 (Exhibit A, pp. 8-13). Given that Petitioner's SER application dated December 16, 2019, occurred after her hearing request, it can be concluded that Petitioner did not request a hearing to dispute the outcome of an application she had not yet filed. Thus, Petitioner's hearing request must have disputed the outcome of her SER application dated November 4, 2019. A State Emergency Relief Decision Notice dated November 13, 2019, stated that Petitioner was approved for \$1,700 in energy payments, subject to a total copayment of \$2,111.60. Petitioner's copayment of \$2,111.60 was based on a shortfall of \$720 and a need amount exceeding the maximum payment by \$1,391.60.

If an application is made for shelter, heat, electricity or utilities, a determination of required payments must be made. ERM 208 (June 2019), p. 4. Required payments are determined from the group size, the group's income, and the obligation to pay for the service that existed during each of the six months prior to application. *Id.* If the client failed without good cause to make required payments, a short fall amount is determined. *Id.* The client must pay the shortfall amount toward the cost of resolving the emergency. *Id.* Verification that the shortfall has been paid must be received before any SER payment can be made. *Id.*

Good cause for failure to meet obligations for shelter, energy, or utilities exists if the SER group's net countable income from all sources during each month the group failed to pay their obligations was less than the amount shown for the SER group size in the good cause table in this item.² ERM 204 (February 2017) p. 2. The good cause amount for a 4-person group is \$270. *Id.*, p. 3.

The six months preceding Petitioner's application month were May 2019 through October 2019. Based on Petitioner's group size of 4, her required monthly payments were \$120. ERM 301 (March 2019) p. 9. During the hearing, MDHHS checked Petitioner's energy account and stated that Petitioner's last payment occurred more than six months from before her application month. It was not disputed that Petitioner's group's income exceeded \$270 for each of the 6 months from before her application month. Based on Petitioner making zero energy payments, and without good cause, in the 6 months before her application month, Petitioner has a shortfall of \$120 for each of the six months. Thus, MDHHS properly calculated Petitioner's shortfall to be \$720. Petitioner's copayment of \$2,111.60 additionally factored that Petitioner's need exceeded SER payment limits by \$1,391.60.

² Additionally, the SER group's income must not be reduced by a disqualification of SSI or MDHHS benefits

The maximum SER payment for heat and electricity is \$850 for each utility. ERM 301 (March 2019) p. 12. The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. ERM 208 (June 2019) p. 3.

It was not disputed that Petitioner was required to pay \$3,811.60 to avoid an energy service shut-off. Applying a potential maximum SER payment of \$1,700 and shortfall of \$720 leaves Petitioner with \$1,391.60 that must be paid towards the cost of avoiding an energy service shut-off. Thus, MDHHS properly required an additional copayment of \$1,391.60 from Petitioner.

Given the evidence, MDHHS properly determined Petitioner was eligible for \$1,700 in SER payments subject to copayments of \$720 for shortfall and \$1,391.60 for a need exceeding SER maximum payments. As Petitioner did not make her required copayments, MDHHS properly did not issue SER payment.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's SER eligibility for rent arrearage and energy, stemming from her applications dated November 4, 2019, and November 11, 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/cg


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 Email:

MDHHS-Wayne-17-Hearings
T. Bair
E. Holzhausen
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

