




GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: February 3, 2020
MOAHR Docket No.: 19-013321
Agency No.: 
Petitioner: Shyrel Powell

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. The hearing was held at least 30 minutes after the scheduled hearing time. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) did not participate.

ISSUE

The issue is whether MDHHS properly denied Petitioner's State Emergency Relief (SER) application for 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 November 14, 2019, Petitioner applied for SER for assistance with an energy bill. Exhibit A, pp. 1-5.
2. As of November 14, 2019, Petitioner lived alone and received ongoing employment income.
3. From November 14, 2019, through December 14, 2019, Petitioner received gross employment income of \$1,087.90 and \$1,031.80. Exhibit A, pp. 8-9.

4. On November 20, 2019, MDHHS denied Petitioner's SER application due to excess income.
5. On December 16, 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. MDHHS policies are contained in the Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute a denial of SER concerning assistance with an electricity bill balance. Petitioner testified that she lives in a residence without electrical service after she requested shut-off until she was able to pay for the accruing balance. A State Emergency Relief Decision Notice dated November 20, 2019, stated that Petitioner was denied SER due to excess income.

The MDHHS database (Bridges) establishes the SER countable income period and determines the SER group's net countable income based on the application date and entry of income information in the data collection screens. ERM 206 (February 2017) p. 1. The SER budget computation period is 30 days. *Id.* This is referred to as the countable income period. *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.*

Petitioner's income eligibility for SER is based on Petitioner's income from the 30-day period beginning with the SER application date. Given an application date of November 14, 2019, Petitioner's income from November 14, 2019, through December 14, 2019, is the 30-day period of income to be factored in SER eligibility.

A budget completed by MDHHS listed Petitioner's income as \$2,105.95. MDHHS did not appear for the hearing to explain how Petitioner's income was calculated, however, MDHHS presented documentation of Petitioner's actual employment income. From November 14, 2019, through December 14, 2019, Petitioner received gross employment pays of \$1,087.90 and \$1,031.80. Exhibit A, pp. 8-9. Adding Petitioner's pays results in a total gross income of \$2,119.70. For purposes of Petitioner's SER income-eligibility, the lower income amount calculated by MDHHS (which is more favorable to Petitioner), will be accepted as Petitioner's gross income.

Petitioner testified that she happened to work extra hours in the 30 days following her SER application, and that her income exceeding \$2,000 is unrepresentative of her

future income. Petitioner's testimony does not affect how her income is to be determined for purposes of SER. As stated above, Petitioner's income from the 30 days beginning November 14, 2019, is relevant to the determination; whether Petitioner's income decreased after those 30 days is irrelevant.

MDHHS allows for a standard 25% credit for employment income. ERM 206 (November 2019) p. 5. Applying a 25% credit to Petitioner's gross income of \$2,105.95 results in a countable net income of \$1,579.46.

MDHHS allows for deductions to income for child support payments, child-care costs, deductions required by the employer as a condition as employment, and health insurance costs. No such expenses were alleged in Petitioner's SER application. Exhibit A, p. 5. Thus, Petitioner's countable net income of \$1,579.46 is not eligible for deductions.

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. ERM 208 (March 2019), p. 1. If the income exceeds the limit, the request must be denied. The income limit for a 1-person SER group is \$1,561. *Id.*, p. 6.


Petitioner's net countable income of \$1,579.46 exceeds the income limit of \$1,561. Thus, MDHHS properly denied Petitioner's SER application due to excess income.

Petitioner testified that she works fewer hours now compared to her hours from November 2019. Petitioner was only approximately \$18 above the income limit. Thus, as discussed during the hearing, if Petitioner were to reapply for SER, she may receive a more favorable outcome than denial.

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 November 14, 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-76-Hearings
T. Bair
E. Holzhausen
BSC4- Hearings
MOAHR

Petitioner – Via First-Class Mail:

