



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR

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Date Mailed: December 21, 2017  
MAHS Docket No.: 17-014824  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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 December 18, 2017, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Nicole Hawkins, Assistance Payment Supervisor.

**ISSUE**

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) assistance with a hot water tank replacement/repair?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner lives on ██████████ Street with her two minor children.
2. On ██████████ 2017, Petitioner applied for SER assistance. In her application, she requested \$980 in assistance with a hot water tank repair/replacement twice and \$9000 in assistance for home repairs.
3. Petitioner advised the Department in comments entered into her MIBridges account that she had intended to request only one hot water tank repair/replacement but erroneously requested two hot water tank repairs/replacements and \$9000 in home repairs.

4. On November 8, 2017, the Department sent Petitioner a State Emergency Relief Decision Notice notifying her that her application was denied because her home was not the group's usual, permanent residence. In the comments section, the Department informed her "your required co-payment is greater than the amount needed for the service." (Exhibit A, p. 5.)
5. On [REDACTED] 2017, the Department received Petitioner's request for hearing disputing the Department's SER decision.

### **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.

Petitioner applied for SER assistance with repair/replacement of a hot water tank. SER assistance is available to eligible clients for non-energy home repairs, which include home repairs for client-owned housing including hot water heater. ERM 304 (October 2017), p. 3. Therefore, assistance with a hot water tank repair/replacement sought by Petitioner is a SER covered service.

The SER Decision notice informed Petitioner that her application was denied because (i) the home was not the group's usual, permanent residence and (ii) Petitioner's required co-payment was greater than the amount needed for the service (Exhibit A, p. 5). At the hearing, the Department failed to present any evidence that the home for which Petitioner sought assistance was not her permanent home. To the contrary, the Department acknowledged that it was and that the denial based on the home not being the group's permanent residence was erroneous.

However, the Department nevertheless concluded that the denial was appropriate because Petitioner's required co-payment was greater than the amount needed for the service. The SER Decision Notice indicated that Petitioner had requested (i) \$980 for hot water heater, (ii) \$980 for hot water heater, and (iii) \$9,000 for repairs to the basic structure (Exhibit A, p. 5). Petitioner argued that she had informed the Department in her MIBridges online account that she was seeking SER assistance for only one \$980 hot water tank repair/replacement and no other repairs. The Department acknowledged

that it was aware that only one service, for \$980 for hot water heater, had been requested and that it processed the application for only that service.

A SER group seeking assistance with non-energy SER services (which includes assistance with non-energy-related home repairs) must pay an income copayment if the group has net income that exceeds the SER income needs standard for non-energy services applicable to the SER group size. ERM 208 (October 2017), p. 1. The amount of the income copayment is the difference between (i) the group's total combined net monthly income that is received or expected to be received by all group members in the 30-day countable income period and (ii) the SER income needs standard. ERM 208, p. 1. Petitioner, who lives in the home with her two minor children, has a SER group size of three. ERM 201 (October 2017), p. 1. For a group size of three, the SER income needs standard is \$625. ERM 208, p. 5. The Department contends that Petitioner's gross monthly income exceeded the \$625 income needs standard by \$1,437.12 and, because this income copayment exceeded the \$980 for requested services, Petitioner was ineligible for SER assistance.

Under SER policy, to determine net income, the Department must first determine the actual income the client expects to receive during the SER countable income period, which is the 30-day period beginning on the date the local office receives a signed application. ERM 206 (February 2017), p. 5. In this case, Petitioner submitted her SER application to the Department on [REDACTED], 2017. Therefore, the SER countable income period in Petitioner's case is November 3, 2017 to December 2, 2017. ERM 206, p. 1.

For the period November 3, 2017 to December 2, 2017, where Petitioner received a paycheck on November 3, 2017, Petitioner would be expected to receive two additional biweekly paychecks, one on November 13, 2017 and another on December 1, 2017, during the countable 30-day income period. Thus, Petitioner was expected to receive **three** paychecks during the 30-day countable income period. While Petitioner would not ordinarily receive three paychecks during a 30-day period, because the Department is required to budget **all** non-excluded gross income the SER group **expects** to receive during the countable pay period, the Department properly considered the income Petitioner expected from all three paychecks received between November 3, 2017 and December 2, 2017.

The Department presented a SER Copayment Details budget showing the information it used to calculate Petitioner's copayment. The budget showed earned income of \$2749.50 during the SER countable income period (Exhibit A, pp. 6-7). The Department testified that this figure was based on the two paystubs Petitioner provided with her application showing biweekly gross income of \$929.50 for October 20, 2017 and \$936 for November 3, 2017. Averaging the two paystubs and multiplying the average by the three pay periods in the 30-day SER countable income period results in gross monthly income of slightly more than the \$2749.50 calculated by the Department.

Once gross income is calculated, under SER policy, the Department arrives at the SER group's net income by deducting certain expenses of employment, which include mandatory withholding taxes (25% of the gross), deductions required by the employer as a condition of employment, deductions for health insurance, and certain child support expenses and certain day care expenses. ERM 206, p. 5.

The budget shows that the Department applied the mandatory withholding tax deduction but Petitioner was not eligible for any other deductions. When Petitioner's gross income is reduced by 25% for the mandatory withholding deduction, her net income is \$2,062.12. When this net income is reduced by the applicable \$625 SER income needs standard, the result is an income copayment of \$1,437.12. Because this exceeds Petitioner's \$980 in requested need, the Department properly concluded that Petitioner was ineligible for SER assistance with a hot water heater on the basis that her income copayment exceeded her requested need. ERM 208, p. 2.

Petitioner is advised that she can reapply for SER.

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.

#### **DECISION AND ORDER**

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



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**Alice C. Elkin**

Administrative Law Judge

for Nick Lyon, 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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

Dora Allen  
14061 Lappin  
Detroit, MI  
48205

**Petitioner**

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

cc: SER: T. Blair; E. Holzhausen  
AP Specialist-Wayne County