



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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

Date Mailed: February 13, 2019
MAHS Docket No.: 18-013393
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 February 11, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's applications for State Emergency Relief (SER) assistance with electricity and water expenses?

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 [REDACTED] 2018, Petitioner submitted an application for SER assistance with his electricity and water expenses each totaling \$ [REDACTED] and indicated that his electricity had been turned off as of November 20, 2018.
2. The Department also received proof of Petitioner's income totaling \$ [REDACTED] for the month of October 2018 and bank statements showing cash assets of \$ [REDACTED]
3. On the same day, the Department issued a SER Decision Notice informing Petitioner that his application had been denied because his countable income was higher than the energy income limit, and his total copayment for utilities was greater than the amount needed.
4. On [REDACTED], 2018, the Petitioner submitted a second application for SER with his electricity expense totaling \$ [REDACTED] and his water expense totaling \$ [REDACTED] indicating that his electricity had been turned off, effective November 13, 2018.

5. On December 6, 2018, Petitioner had a total of \$ [REDACTED] in cash assets in his various bank accounts.
6. On December 7, 2018, the Department issued a SER Decision Notice denying Petitioner's application for the same reasons as his [REDACTED], 2018, application.
7. As of December 7, 2018, Petitioner had past-due balances on his electric bill of \$ [REDACTED] of \$ [REDACTED] for his water bill, and finally of \$ [REDACTED] for his sewer bill.
8. As of the same day, Petitioner had quarterly earnings for the previously completed four quarters of \$ [REDACTED] or \$ [REDACTED] per month.
9. Petitioner also received \$ [REDACTED] per month for his Retirement, Survivors and Disability Insurance (RSDI) benefit through December 2018.
10. On December 11, 2018, the Department received Petitioner's request for hearing disputing the denial of his SER applications.

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 electric, water, and sewer expenses was denied due to excess income and having a copayment greater than his need. In SER cases, non-heat electricity and heating costs are considered energy services. ERM 301 (October 2018), p. 1. Water or sewage costs are considered utility services. ERM 302 (October 2018), p. 1.

Energy Services

SER assistance for energy services is available to low-income households that meet eligibility requirements. ERM 301, 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. *Id.* 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. *Id.* The SER Income Need Standard for Energy/LIHEAP Services is \$1,518.00 for a group size of one, effective October 1, 2018. ERM 208 (October 2018), 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 [REDACTED], 2018, his countable income period extends to December 26, 2018, for the first application and December 6, 2018, through January 5, 2019, for the second application dated [REDACTED], 2018. 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] RSDI benefit. However, at the hearing, the parties disputed Petitioner's actual amount of earned income. The Department believes that Petitioner's earned income was \$[REDACTED]. Petitioner believes it was \$[REDACTED] and based on his quarterly wages as shown by the Consolidated Income Inquiry, the average for every quarter for the last four completed quarters was \$[REDACTED]. A review of the paystub submitted to the Department for verification of his income shows that he received \$[REDACTED] for October 2018. Therefore, this is the figure that will be considered.

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, and other deductions required as a condition of employment, court ordered child support, and dependent care costs. ERM 206, p. 5. The only evidence presented was a deduction for taxes. Therefore, Petitioner receives a deduction totaling \$[REDACTED] or 25% of his monthly income of \$[REDACTED]. After deducting taxes and all other applicable expenses, Petitioner's unearned income is added to achieve his net countable income. Therefore, Petitioner's net income is \$[REDACTED]. After reviewing Petitioner's circumstances, his net countable income is significantly greater than the SER Income Need Standard for Energy/LIHEAP Services for his November and December 2018 SER Applications. Therefore, the Department acted in accordance with Department policy in denying Petitioner's Application for SER energy assistance with electricity (energy services).

Utility Services

SER provides assistance with payments of arrears in order to maintain or restore services for water, sewer, or cooking gas. ERM 302, p. 1. Before SER payments can be issued, income and asset copayments must be verified in addition to shortfalls and contributions from other sources. ERM 302, p. 3. Copayments are calculated based on asset and income information because clients are required to use their available income and cash assets to help resolve the emergency. ERM 208, p. 1. Asset copayments equal the value of any cash asset greater than \$50.00. *Id.* Income copayments are created 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 Standard for Non-Energy Services. *Id.* The SER Income Need Standard for Non-Energy Services for a group size of one is \$445.00. ERM 208, p. 6. Any net income which exceeds the need standard for the group size must be deducted from the cost of resolving the emergency. ERM 208, p. 1. This amount is the income copayment. *Id.* The total copayment is the income and asset copayments combined and represents the amount that the group must pay toward the emergency. ERM 208, p. 2.

As discussed above, Petitioner has a net countable income of \$[REDACTED] per month and the need standard is \$[REDACTED]. Therefore, Petitioner has a \$[REDACTED] income copayment. Petitioner also had cash assets of \$[REDACTED] in November 2018 and \$[REDACTED] in December 2018; thus, there is an asset copayment of \$[REDACTED] in November and \$[REDACTED] in December. Petitioner's total copayment is either \$[REDACTED] for November or \$2,177.51 for December. Since Petitioner requested assistance with his water or sewage for arrears totaling \$[REDACTED] in November and \$[REDACTED] in December, his total copayment is greater than the amount that is needed and the Department properly denied Petitioner's SER utility application for water and sewage assistance.

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 Applications in [REDACTED] and [REDACTED] 2018.

DECISION AND ORDER

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



AMTM/jaf

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 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) 763-0155; 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

Amber Gibson
MDHHS-Ingham-Hearings

Petitioner

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