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GOVERNOR

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

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DIRECTOR

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Date Mailed: September 19, 2019
MOAHR Docket No.: 19-007557
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 August 22, 2019, from ██████████ Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator.

ISSUE

Did the Department properly deny the Petitioner's request for State Emergency Relief (SER) with her gas and electric bill?

FINDINGS OF FACT

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

1. The Petitioner applied for SER June 18, 2019, for assistance with her past due gas and electric bills. In her application, the Petitioner reported that she was the only person residing in her home.
2. The Petitioner receives Retirement, Survivors and Disability Income Insurance (RSDI) from the Social Security Administration (SSA) in the amount of \$1,443.50. Petitioner also receives a pension in the amount of \$347.27. The Petitioner's total monthly income is \$1,790.77. Exhibit A and Exhibit C.
3. The income limit for energy services for a group size of one person is \$1,518 per month.

4. On June 21, 2019 the Department sent a State Emergency Relief Decision Notice to Petitioner denying her application due to her countable income being higher than the maximum amount allowed for the program.
5. The Petitioner requested a timely hearing on July 11, 2019, protesting 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, the Petitioner applied for SER for energy services seeking assistance with her gas and electric bills. The Department denied the application because the Petitioner's unearned income from RSDI and a pension in the total amount of \$1,790.77 exceeded the income limit for energy services.

Department policy found in ERM 208 provides the following with respect to income limits and eligibility for SER energy services:

There are no income copayments for SER energy services. With respect to income, clients are either eligible or they are not. 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. If the income exceeds the limit, the request must be denied; see *SER Income Need Standards for Energy Services* at the end of this item. ERM (June 1, 2019), p. 6; ERM 301 (March 2019), pp. 6-7.

The Standards for Energy Services provide that for a group of one person the monthly income limit is \$1,518.00. ERM 208, p. 6. As can be seen, the Petitioner's income of \$1,790.77 is in excess of the monthly income limit. The Department correctly determined that the Petitioner was not eligible for SER energy services based upon income. The Petitioner did not dispute her income but asserted she should be credited for her RSDI Medicaid Part B premium. There are no allowances in Department policy for such credits; the Department must determine income of all household members. Thus, the Department used the correct gross unearned income to determine eligibility.

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 the Petitioner's SER energy services application due to Petitioner's income exceeding the income limit for a group of one person.

DECISION AND ORDER

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

LF/jaf



Lynn M. Ferris

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 (via electronic mail)

Tara Roland 82-17
MDHHS-Wayne-17-Hearings
BSC4
L Karadsheh

Petitioner
(via first class mail)

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