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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 9, 2019
MOAHR Docket No.: 19-008264
Agency No.: ██████████
Petitioner: ██████████

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 September 3, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kristen Crain, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER) for assistance with rent arrearage.

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 an unspecified date, a district court issued a judgment that Petitioner owed \$3,590 in order to retain possession of his rental unit.
2. From January 2019 through June 2019, Petitioner was a member of a three-person household and his rent was \$925/month. Petitioner paid his full rent from January 2019 through March 2019 and paid \$0 from April 2019 through June 2019. Petitioner's monthly household unearned income for each month was \$1,496.
3. On July 8, 2019, Petitioner applied for SER seeking assistance with a rent arrearage.

4. As of July 8, 2019, Petitioner's household had a total monthly unearned income of \$1,496.
5. On July 18, 2019, MDHHS denied Petitioner's SER application due to Petitioner's income copayment and shortfall exceeding the amount of need.
6. On July 25, 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 seeking assistance with a rent arrearage. SER - Relocation Services assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2018), p. 1. A State Emergency Relief Decision Notice dated July 18, 2019, stated that Petitioner was denied due to Petitioner's income copayment plus shortfall exceeding the amount of need. Exhibit A, pp. 13-14.

In processing Petitioner's SER, MDHHS factored a need amount of \$3,590. MDHHS obtained the amount from a Judgment Landlord-Tenant form stating that Petitioner owed \$3,590 in rent to his landlord. Exhibit A, p. 3. MDHHS could have factored a need of \$3,750 based on an additional \$160 in court costs. Petitioner's need will be accepted as \$3,590 for or two reasons. First, MDHHS policy states that court costs *may* be included in the amount of need for rent evictions; usage of "may" implies that the inclusion of court costs as part of the need is discretionary. Secondly, if court costs were included as part of Petitioner's need amount, Petitioner might have been eligible for a small amount of SER, but Petitioner would have been responsible for a \$3,000 + copayment within 30 days of his SER application date.¹ The evidence suggested that Petitioner did not make such a copayment. Under the circumstances, MDHHS properly factored Petitioner's SER need to be \$3,590.

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 standards found in the SER Income Need Standards for Non-Energy Services. ERM 208 (March 2019), p. 1. Income that is more than the basic monthly income need standard for the number

¹ Clients with copayment must submit proof of copayment to MDHHS within 30 days of the application date. ERM 103 (March 2019), p. 4.

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

MDHHS calculated Petitioner's income copayment based on Petitioner's undisputed monthly income of \$1,496. The SER Income Need Standard for Petitioner's group size of three persons is \$625. *Id.*, p. 6. Subtracting Petitioner's SER Income Need Standard from his income results in an income copayment of \$871. MDHHS determined the same copayment. Exhibit A, pp. 10-11.

For shelter assistance, a determination of required payments must be made. ERM 208 (March 2019), p. 4. Required payments are determined based on the group size, the group's income and the obligation to pay for the service that existed during each month of the six months prior to application. *Id.* If the client failed without good cause to make required payments, a shortfall amount is determined. *Id.* The client must pay the shortfall amount toward the cost of resolving the emergency. *Id.*

January 2019 through June 2019 were the six months before Petitioner's application date. For each month, Petitioner's monthly rent was \$925.² It was not disputed that Petitioner paid his full rent amounts in January 2019 through March 2019; thus, Petitioner had no shortfall for those months. MDHHS factored that Petitioner paid \$0 rent from. During the hearing, Petitioner testified that he paid an unspecified amount of rent to his landlord from April 2019 through June 2019. Petitioner also testified that his payments were made with cash but he has receipts from his landlord to verify payment. Though Petitioner's testimony sounded credible, deference will be given to the county district court judge who determined the amount of rent owed by Petitioner. Unfortunately for Petitioner, the district judge did not recognize Petitioner's receipts from April 2019 through June 2019 as reliable evidence of paid rent. Given the evidence, Petitioner paid \$0 in rent for April 2019 through June 2019. Petitioner would not have good cause for non-payment of rent in any month because his household income exceeded the good cause standard of \$255 for each benefit month. Given a monthly rent of \$925, Petitioner has a shortfall of \$2,775 for the unpaid rent from April 2019 through June 2019.³

Adding Petitioner's shortfall (\$2,775) and income copayment (\$871) creates a total copayment of \$3,646. Based on Petitioner's need amount of \$3,590, Petitioner's combined copayment and shortfall amount exceeded his need amount. As a copayment/shortfall cannot exceed a need amount, MDHHS properly denied Petitioner's SER application despite various errors in calculating Petitioner's eligibility.

² MDHHS incorrectly factored an incorrect rent of \$952 for January 2019 and June 2019.

³ MDHHS calculated an improper shortfall amount of \$2,839 by incorrectly budgeting Petitioner's rent amount in January 2019 and June 2019.

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 concerning rent arrearage dated July 8, 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



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

DHHS (via electronic mail)

Lori Duda
MDHHS-Oakland II-Hearings

BSC4
T Bair
E Holzhausen

Petitioner (via first class mail)


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