



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]

Date Mailed: January 17, 2020  
MOAHR Docket No.: 19-012582  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 8, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Marita Clark, specialist.

### **ISSUE**

The issue is whether MDHHS properly denied Petitioner's State Emergency Relief (SER) application requesting assistance with replacement of a hot water tank.

### **FINDINGS OF FACT**

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of November 2019, Petitioner received the following gross income: \$1,029.50 in monthly Retirement, Survivor, Disability Insurance (RSDI), \$441.45 in monthly gross pension income, and \$124.50 per week in worker's compensation benefits.
2. On [REDACTED] 2019, Petitioner applied for SER seeking assistance with the cost of replacing a hot water tank.
3. On an unspecified date, Petitioner provided MDHHS with three estimates for hot water tank replacement, which ranged from \$1,100 to \$1,300.

4. On November 15, 2019, MDHHS denied Petitioner's SER eligibility due to Petitioner's income copayment exceeding her need amount.
5. On November 20, 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 the cost of a hot water tank replacement. Exhibit A, pp. 1-3. A State Emergency Relief Decision Notice dated November 15, 2019, stated that Petitioner was ineligible due to her income copayment exceeded the amount of need. Exhibit A, p. 25.

SER assists with home repairs to correct unsafe conditions and restore essential services. ERM 304 (October 2018) p. 1. Replacement of a hot water heater is among potentially SER-covered non-energy related repairs. *Id.*, p. 3.

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 SER Income Need Standards for Non-Energy Services. ERM 208 (November 2019) p. 1. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. *Id.* This is the income copayment. *Id.*

For SER, MDHHS is to verify and budget all non-excluded gross income the SER group expects to receive during the countable income period. ERM 206 (November 2019) p. 1. The countable income period is 30 days and begins with the date of application. *Id.*

It was not disputed that Petitioner received gross monthly income of \$1,029.50 in RSDI and \$441.45 from a pension. Petitioner additionally received weekly income of \$124.50 for worker's compensation. Multiplying Petitioner's weekly income by four to account for the minimum income received during the countable income period results in \$498 in countable income.<sup>1</sup> Adding Petitioner's RSDI (\$1,029.50), pension (\$441.45), converted worker's compensation income (\$498) results in a total gross income of \$1,968.95.

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<sup>1</sup> Petitioner's weekly income might have to be multiplied by 5 if she received an extra weekly pay during the countable income period. For purposes of this decision, it will be assumed that Petitioner only received four weekly worker's compensation pays.

Petitioner testified that her RSDI was reduced \$135.50 for a Medicare premium. Unreimbursed Medicare premiums are to be deducted from a client's income. *Id.*, pp. 4-5. Subtracting Petitioner's Medicare premium cost from her gross income results in a countable income of \$1,833.45

Petitioner's SER application (Exhibit A, pp. 4-17) listed Petitioner as the only household member. Thus, Petitioner is a group of 1 person. The SER Income Need Standard for a group size of 1 person is \$445. *Id.*, p. 6. Thus, every countable dollar for Petitioner above \$445 is Petitioner's income copayment. Subtracting \$445 from Petitioner's countable income of \$1,833.45 results in an income copayment of \$1,388.45.

Copayment amounts are deducted from the cost of resolving the emergency. ERM 208 (November 2019) p. 2. Thus, when income copayments exceed the amount of SER requested, the SER application should be denied.


Petitioner submitted to MDHHS three estimates for hot water heater replacement ranging from \$1,100 to \$1,300. Exhibit A, pp. 18-21. MDHHS policy only requires one estimate, but if additional estimates are submitted, then MDHHS is to use the lowest estimate. ERM 304 (October 2018) p. 5. Petitioner's lowest estimate of \$1,100 is exceeded by her income copayment of \$1,388.45. Thus, MDHHS properly denied Petitioner's SER application.

As discussed during the hearing, Petitioner is encouraged to reapply for SER if assistance is still needed. Also discussed during the hearing was the possibility of an income copayment modification by MDHHS. First line supervisors have discretion to reduce or waive income copayments for non-energy services. ERM 208 (November 2019) pp. 2-3. Such circumstances require either: use of available income by the group for unusual expenses to protect the group's safety, or the provider demanding payment in advance while the group's income is not available until later. *Id.*, p. 3. As an income copayment is discretionary, it may not be the subject of this analysis; however, Petitioner's sympathetic circumstances should be considered by MDHHS if Petitioner reapplies.

### **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 [REDACTED] 2019, requesting assistance for a hot water heater replacement. The actions taken by MDHHS are **AFFIRMED**.

CG/cg

  
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**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-57-Hearings  
T. Bair  
E. Holzhausen  
BSC4-Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

