



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 31, 2020  
MOAHR Docket No.: 19-013320  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 23, 2020, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Staci Sanders, Eligibility Specialist and Jhawana Dixon, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly deny Petitioner's State Emergency Relief (SER) application?

### **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], 2019, Petitioner submitted an application for SER benefits for assistance with her gas, electric, water and property taxes (Exhibit A, pp. 5-16).
2. On [REDACTED], 2019, Petitioner completed an interview related to her SER application (Exhibit A, pp. 17-18).
3. Petitioner resided with her brother and daughter.
4. Petitioner's daughter had income from employment.

5. Petitioner's brother had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) benefits.
6. Petitioner had rental income in the monthly amount of \$ [REDACTED].
7. On November 13, 2019, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her SER application was denied (Exhibit A, pp. 30-31).
8. December 2, 2019, Petitioner submitted a request for hearing disputing the Department's actions.

### **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 submitted an application for SER benefits on [REDACTED], 2019, requesting assistance with her gas, electric, water and property taxes. The Department denied Petitioner's SER application for all service requests. The Department testified that each service was denied for a different reason.

#### **Gas and Electric**

Petitioner applied for assistance with her gas and electric energy services. The Department testified that Petitioner's application for energy services was denied, as she had already been approved for SER benefits for gas and electric in October 2019.

Low-income households who meet all SER eligibility requirements may receive assistance for energy related services to help them with household heat and electric costs. ERM 301 (February 2017), p. 1. A household may receive one SER payment for heat and one for non-heat electricity, up to the SER cap, each fiscal year. ERM 301, p. 1.

The Department presented Petitioner's SER Payment History (Exhibit A, p. 32). The document shows that Petitioner was approved for SER benefits on November 2, 2019. Petitioner's application was in the same fiscal year. Therefore, the Department acted in

accordance with policy when it denied Petitioner's SER application for gas and electric services.

### **Property Taxes**

Petitioner applied for assistance with her delinquent property taxes. The Department testified that Petitioner's application for home ownership services was denied, as her home was not in jeopardy of loss.

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. ERM 304 (October 2018), p. 1. Home ownerships services includes property taxes and fees. ERM 304, p. 1. Home ownerships services are only issued to save a home threatened with loss due to: (i) mortgage foreclosure; (ii) land contract forfeiture; (iii) tax foreclosure or sale; (iv) court-ordered eviction of a mobile home from land or a mobile home park; or (v) repossession for failure to meet an installment loan payment for a mobile home. ERM 304, pp. 1-2. The client must submit verification of the foreclosure or property tax sale. ERM 304, pp. 6-7.

The Department testified that Petitioner did not submit verification that her home was in jeopardy of loss, as there was no pending foreclosure or property tax sale. Petitioner acknowledged that her home was not in foreclosure or subject to sale due to delinquent taxes. Therefore, the Department acted in accordance with policy when it denied Petitioner's SER application for property taxes.

### **Water**

Petitioner submitted an application for assistance with her water utility in the amount of \$216.53 (Exhibit A, pp. 20-21). The Department testified that Petitioner's application for assistance with her water utility was denied, as her income copayment exceeded the need.

SER helps to restore or prevent shut off of certain utility services when service is necessary to prevent serious harm to the SER group members. ERM 302 (October 2018), p. 1. Water is a covered utility service. ERM 302, p. 1. SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (February 2017), p. 1. The total copayment is the amount the SER group must pay toward their emergency. ERM 208, p. 2. Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, p. 2. In most cases cash assets in excess of \$50 result in an asset copayment. ERM 208, 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. This is the income copayment. ERM 208, p. 1. The income and asset copayments combined together determine the SER group's total copayment. ERM 208, p. 2. ERM 208, p. 1. When processing an application, if the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied. ERM 103 (February 2017), p. 4.

There was no evidence Petitioner had any asset copay. The Department testified that the Petitioner's household included Petitioner, Petitioner's daughter and Petitioner's brother. The Department testified that it included \$[REDACTED] in earned income from Petitioner's daughter's income from employment. However, the Department stated that it was unsure as to how Petitioner's daughter's income was calculated. The Department testified that the income was retrieved from a Work Number report but did not produce the document. Therefore, the Department failed to establish that it properly calculated Petitioner's daughter's earned income.

Additionally, the Department included Petitioner's brother's RSDI income in the monthly amount of \$759. The Department is to utilize the net RSDI benefit amount received. ERM 206 (November 2019), p. 1. The Department did not present Petitioner's brother's State Online Query Report (SOLQ) to verify that the figure used was the net benefit amount, and not the gross benefit amount. Therefore, the Department failed to establish that it properly calculated the household's unearned income.

The Department failed to establish that it properly calculated Petitioner's household's income. As it follows, the Department failed to establish that it properly determined that Petitioner's copayment exceeded the need. Thus, the Department failed to establish that it properly denied Petitioner's application for assistance with her water utility.

### **DECISION AND ORDER**

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 for assistance with gas, electric and property taxes. The Department failed to establish that it acted in accordance with policy when it denied Petitioner's application for assistance with her water utility.

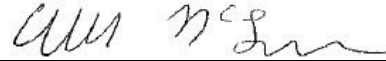
Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's application for SER for gas, electric and property taxes, and **REVERSED IN PART** with respect to Petitioner's application for SER benefits for water.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate and reprocess Petitioner's [REDACTED], 2019 SER application for assistance with her water utility;
2. If Petitioner is eligible for SER benefits, issue payments in accordance with Department policy; and

3. Notify Petitioner of its SER decision in writing.

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**Ellen McLemore**  
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-31-Hearings  
T. Bair  
E. Holzhausen  
BSC4- Hearing Decisions  
MOAHR

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

