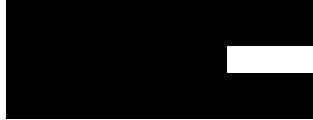




GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: February 5, 2020
MOAHR Docket No.: 19-013620
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 31, 2020, from Detroit, Michigan. Petitioner was present with [REDACTED]. The Department of Health and Human Services (Department) was represented by Rollin Carter, Hearing Facilitator and Melissa Stanley, Hearing Facilitator.

ISSUE

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

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 energy services for her gas and electric (Exhibit A, pp. 9-19).
2. Petitioner's household consisted of herself and her husband.
3. Petitioner had Retirement, Survivors and Disability Insurance (RSDI) benefits in the net monthly amount of \$ [REDACTED].
4. Petitioner had a pension income in the net monthly amount of \$ [REDACTED].
5. Petitioner's husband had RSDI benefits in the net monthly amount of \$1,156.

6. Petitioner's husband had income from employment.
7. On December 11, 2019, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her SER application was denied (Exhibit A, p. 22).
8. On December 16, 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. On December 11, 2019, the Department sent Petitioner notice that her SER application was denied. The Department testified that Petitioner's application was denied for excess income.

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (December 2019), p. 1. There are no income copayments for SER energy services. ERM 208, p. 1. With respect to income, clients are either eligible or they are 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. ERM 208, p. 1. If the income exceeds the limit, the request must be denied. ERM 208, p. 1. The SER income need standard for energy/LIHEAP services for a group size of two is \$2,113. ERM 208, p. 6. Heat and electric are energy-related services. ERM 301 (November 2019), pp. 3-4).

The Department testified that Petitioner's household's unearned income alone placed the group over the income limit. The Department testified that it utilized Petitioner's RSDI benefit payment of \$1,081, her pension payment of \$[REDACTED] and her husband's RSDI benefit payment of \$[REDACTED]. The Department used the gross amounts.

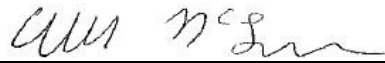
The Department erred when it used the gross benefit payments. Per policy, the Department is to utilize the net payments. However, Petitioner testified that her net RSDI and pension payments are the same as the gross. Petitioner's husband's net

RSDI payment is \$ [REDACTED]. Petitioner's and Petitioner's husband's combined net unearned income is \$ [REDACTED] which exceeds the income limit for their group size. Therefore, the Department acted in accordance with policy when it denied Petitioner's SER application.

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

EM/cg



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-Saginaw-Hearings
T. Bair
E. Holzhausen
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

