



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: November 13, 2020
MOAHR Docket No.: 20-005856
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 October 14, 2020, from Lansing, Michigan. The Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Jessica Kirchner, Hearings Coordinator.

Respondent's Exhibit A pages 1-124 were admitted as evidence.

ISSUE

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

FINDINGS OF FACT

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

1. [REDACTED], Petitioner applied for the SER program.
2. April 9, 2020, the application processed by the worker and denied Consumers (Heat natural gas bill) as there is no shut off and no past due so Petitioner does not have an emergency. Denied BWL (Non-heat Electricity) as Petitioner's countable income is higher than the maximum amount allowed for this program.

3. The Department determined that it must deny the request for Utility services as the Petitioner's income/asset copayment is equal to or greater than the amount needed to resolve the emergency.
4. The Department determined that it must deny the request for Non-energy home repairs as Petitioner's income/asset copayment is equal to or greater than the amount needed to resolve the emergency.
5. On April 9, 2020 a Notice of Case Action was sent to Petitioner.
6. On April 10, 2020, Petitioner submitted a hearing request regarding SER denial.
7. On April 13, 2020, the Hearing Coordinator received the hearing request and set up prehearing for April 20, 2020.
8. On April 20, 2020, the prehearing was attended, and Petitioner would like to continue with hearing.
9. On April 20, 2020 a hearing packet was sent to the Michigan Office of Administrative Hearings and Rules.
10. On August 11, 2020 a hearing was held.
11. On August 12, 2020, the undersigned Administrative Law Judge issued a Decision and Order indicating that Petitioner's April 8, 2020, application be reinstated; and ordering the following:
 - Allow Petitioner to submit childcare expenses verification for deduction consideration in accordance with Department policy;
 - Redetermine Petitioner's net income;
 - Redetermine if Petitioner has a co-payment and whether it exceeds the need;
 - If Petitioner does have a co-payment, a supervisor must review the co-payment waiver option; and,
 - Notify Petitioner of his eligibility or lack thereof for State Emergency Relief; and
 - If eligible, pay for the emergency, in compliance with Department policy.
12. The Department reprocessed the application and sent Petitioner a Notice of Negative Action on August 20, 2020, indicating that it did not consider unusual expense information.

13. On September 1, 2020, Petitioner filed a Request for Hearing to contest the negative action.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Petitioners have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Bridges Administrative Manual (BAM 600).

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.

Pertinent Department policy indicates:

Petitioners have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits, or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (April 1, 2017), pp 3-4.

The Petitioner or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days. BAM 600, page 6

Applicants must complete and sign one of the following applications in order to apply for State Emergency Relief (SER):

- DHS-1514, Application for State Emergency Relief.
- MDHHS-1171, Assistance Application and the MDHHS-1171- SER, State Emergency Relief (SER) supplemental form.
- A MI Bridges online application in which an SER service has been requested. Applicants may file an application for SER in any county in Michigan. An application submitted through MI Bridges for an SER covered service is considered a complete application, no additional application is required. Incomplete applications may be filed, but must be completed before authorizing SER. State Emergency Relief Manual (ERM) 103, page 1

Net unearned income must be determined by deducting all of the following from the gross amount received:

- Mandatory withholding taxes.
- Court ordered child support paid, including arrears, but not more than the amount ordered by the court. No deduction is made for paid, voluntary child support.
- Payments for health insurance.
- Medicare premiums that will not be reimbursed. (ERM 206)

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 at the end of this item.

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.

There are no income copayments for SER energy services. With respect to income, Petitioners 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 208, page 1)(Emphasis Added)

The income and asset copayments combined together determine the SER group's total copayment.

The total copayment is the amount the SER group must pay toward their emergency. Copayment amounts are deducted from the cost of resolving the emergency. (ERM 208, page 2)

In this case, Petitioner indicated that he is not contesting the utility bill denial as there was no shut off at the time of the application. Petitioner wanted to proceed on the home repair portion of the application.

The Department Representative conceded on the record that Petitioner's childcare costs were not included in the SER budget and that childcare expenses are a deduction which can be considered for SER eligibility. The Department conceded that they did not complete the process of unusual expenses or determine whether Petitioner was eligible other aid.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has not established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied Petitioner's application for State Emergency Relief based upon its determination that Petitioner's net income exceeded the need.


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

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 Petitioner's April 8, 2020, application;
2. Allow Petitioner to submit childcare expenses verification for deduction consideration in accordance with Department policy;
3. Redetermine Petitioner's net income;
4. Redetermine if Petitioner has a co-payment and whether it exceeds the need;

5. If Petitioner does have a co-payment, a supervisor must review the co-payment waiver option;
6. Reprocess the application with correctly budgeted income;
7. Determine if Petitioner meets income eligibility standards once the waiver option is applied;
8. Determine if Petitioner qualifies for SER once all available funding options have been explored;
9. Notify Petitioner of his eligibility or lack thereof for State Emergency Relief; and
10. If eligible, pay for the emergency, in compliance with Department policy.

LL/hb



Landis Lain
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

Eaton County, DHHS

BSC2 via electronic mail

T. Bair via electronic mail

E. Holzhausen via electronic mail

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]