



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

J [REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: October 30, 2020
MOAHR Docket No.: 20-006039
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 hearing was held on October 28, 2020, via telephone conference line. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Amber Ogden, specialist

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER) concerning home repairs.

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], 2020, Petitioner applied for SER seeking assistance with a furnace repair/replacement and repair of an electrical panel. Petitioner reported a monthly income of \$[REDACTED] and a monthly housing obligation of \$536.
2. On an unspecified date, MDHHS calculated Petitioner's housing affordability based on a housing obligation of \$694.
3. On September 4, 2020, MDHHS denied Petitioner's application due to housing not being affordable.
4. On [REDACTED], 2020, 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 Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute a denial of SER requesting repairs for a furnace and electrical panel. Exhibit A, p. 3. A decision notice dated September 4, 2020, stated that Petitioner's application was denied due to housing affordability.¹

Energy-related home repairs only include furnace repair or replacement. ERM 304 (October 2018) p. 2. Non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement. *Id.*

Housing affordability is a condition of eligibility for SER-home repairs. ERM 207 (October 2015) p. 1. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. *Id.* Thus, MDHHS is to authorize SER for home repairs only if the SER group has sufficient income to meet ongoing housing expenses. *Id.*

Total housing obligation means the total amount that the SER group must pay for rent, house payment, lot rent, property taxes and required insurance payments. If no utilities are included in the housing obligation, the total housing obligation cannot exceed 75% of the group's total net countable income. *Id.*, p. 2. The 75% figure increases up to 100%, depending on which utilities are included in the client's housing obligation. *Id.*

Notably, the hearing packet submitted by MDHHS did not include a relevant denial notice or housing affordability budget. During the hearing, some attempt was made to elicit from MDHHS the information used to determine that Petitioner's housing was not affordable. MDHHS testified that Petitioner had monthly unearned income of \$790. MDHHS further testified that Petitioner's reported housing obligation from 2019 of \$694.10 was factored. Multiplying \$790 by 75% results in a countable income of \$[REDACTED], which is less than Petitioner's housing obligation of \$694.10. Under these circumstances, Petitioner's housing is not affordable.

Petitioner responded that MDHHS incorrectly factored her income. Petitioner testified that she received \$[REDACTED] in monthly rent from a tenant. MDHHS responded that Petitioner's income was not budgeted in her ongoing FAP eligibility or on her SER application. Thus, MDHHS contended, it could not have considered the \$[REDACTED] in income reported by Petitioner when determining housing affordability. MDHHS's response had

¹ MDHHS sent Petitioner a notice on August 11, 2020, stating that Petitioner's SER application was denied because she withdrew her application. Exhibit A, pp. 4-7. Inexplicably, MDHHS reprocessed Petitioner's SER application and sent Petitioner a second denial notice. Presumably, the later notice reflected the actual basis for denying Petitioner's SER application.

some merit as Petitioner responded “no” to all SER questions asking if she had income. Exhibit B, p. 4. However, Petitioner elsewhere in the SER application that her monthly income for August 2020 was \$[REDACTED]. Exhibit B, p. 5. Under the circumstances, MDHHS should have attempted to resolve the conflict of information. There was no evidence that MDHHS made any attempt to do so.

Petitioner also alleged that MDHHS over-stated her housing obligation. Petitioner testified that her monthly obligation decreased to \$532 after 2019. Petitioner’s testimony was close to the housing obligation of \$536 reported in her SER application. Exhibit B, p. 5. MDHHS failed to explain why Petitioner’s obligation from 2019 was factored rather than the more recently reported monthly obligation of \$536.

Given the evidence, MDHHS improperly determined Petitioner’s housing affordability in determining her SER eligibility for home repairs. As a remedy, Petitioner is entitled to a reprocessing of her SER application.


DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER application. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Register Petitioner's SER application dated [REDACTED], 2020, seeking assistance with home repairs;
- (2) Determine Petitioner's housing affordability subject to the findings that Petitioner reported income of \$[REDACTED] and a housing obligation of \$536 in her SER application; and
- (3) Issue an updated notice in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/tm



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-15-Hearings
T. Blair
E. Holzhausen
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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