



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: March 2, 2021
MOAHR Docket No.: 20-007470
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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, an administrative hearing was held on February 23, 2021.

Petitioner appeared and testified.

The Department of Health and Human Services (Department) was represented by Erika Morant, Assistance Payment Supervisor.

Department Exhibit A.15 was offered and admitted into the record.

ISSUE

Did the Department properly deny Petitioner's shelter emergency assistance request?

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] Petitioner submitted an SER application to prevent eviction and to request assistance with utilities.
2. Petitioner was approved assistance with energy assistance but was denied eviction assistance due to her housing not being affordable under MDHHS policy.
3. Petitioner's rental obligation is \$905.00. Petitioner's income is [REDACTED] in unemployment and [REDACTED] in child support.

4. On November 20, 2020 Petitioner filed a hearing request.

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.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The purview of an Administrative Law Judge is to review the Department's action, and, to decide if the evidence of record supports that action taken by the Department. After the Department meets its burden of going forward, Petitioner has burden of proof to show that the action is not supported by the evidence and is contrary to law or policy. ALJs do not have any jurisdiction to deviate from law or policy due to individual circumstances.

Applicable to the case herein, applicable policy is found primarily at ERM 207. Under that policy, eligibility for housing assistance requires that an applicant's housing cannot be more than 75% of the applicant's net income.

Here, unrefuted evidence is that Petitioner's countable income of \$ [REDACTED] after allowed deductions far exceeds 75% of her \$905.00 housing expense.

Petitioner argues that her child has virtual learning and that she has been a rental the home she lives in for three years. Unfortunately for Petitioner, her arguments fail to satisfy her burden of proof to bring forth sufficient law or policy to show eligibility under the MDHHS policy. As such, the Department's denial must be upheld.

It is noted that the Department argued in the alternative, Petitioner would not have any eligibility as she no longer has an emergency. Petitioner understands that she may reapply at any time.

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 its policy when it denied Petitioner's emergency shelter application.

DECISION AND ORDER

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

JS/ml



Janice Spodarek
Administrative Law Judge
for Elizabeth Hertel, Director
Department of Health and Human Services

