



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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██████████, MI ██████████

Date Mailed: January 6, 2022  
MOAHR Docket No.: 21-004918  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE:** Linda Jordan

### **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 telephonic hearing was held on December 9, 2021. Petitioner appeared and represented himself. Princess Ogundipe, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

### **ISSUE**

Did MDHHS properly deny Petitioner's request for State Emergency Relief (SER) services?

### **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 ██████████ ██████████ ██████████ Petitioner submitted an SER application for assistance with utility bills for non-heat electricity and heat natural gas/wood/other (Exhibit A, pp. 8-11). Petitioner reported that he received Retirement, Survivors, Disability Insurance (RSDI) income.
2. On September 19, 2021, MDHHS sent Petitioner a State Emergency Relief Decision Notice stating that he was denied for SER assistance for energy services (heat and non-heat electricity) (Exhibit A, pp. 15-17). The reason for the denial was that his countable income was higher than the maximum amount allowed for the program (Exhibit A, p. 16). MDHHS determined that Petitioner's RSDI income exceeded the income limit of \$██████████ for a group size of one (Exhibit A, p. 1).

3. On [REDACTED] [REDACTED] [REDACTED] Petitioner filed a request for hearing challenging the denial of his SER application (Exhibit A, pp. 3-4).

### **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 MDHHS pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, MDHHS determined that Petitioner exceeded the income limit for SER energy services and denied his application.

SER group members must use their available income and cash assets to help resolve the emergency. ERM 208 (October 2021), p. 1. To determine whether an individual is eligible for SER, MDHHS must verify and budget the applicant's net income, which includes all non-excluded gross income the individual or group expects to receive during the countable income period. ERM 206 (November 2019), p. 1. The countable income period is 30 days, beginning on the date the application is received. *Id.* For RSDI, MDHHS must use the net amount received and exclude reimbursement of Medicare premiums. *Id.* Net unearned income must be determined by deducting the following from the gross amount received: (i) mandatory withholding taxes; (ii) court-ordered child support; (iii) payments for health insurance; and (iv) Medicare premiums that will not be reimbursed. ERM 206, pp. 4-5.

For an applicant to be eligible for SER energy services, the combined monthly net income cannot exceed the standard for SER energy/LIHEAP services for the number of group members. ERM 208, p. 1. There are no income copayments for SER energy assistance. *Id.* Clients are either eligible or they are not. *Id.* 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 one is \$ [REDACTED] ERM 208, p. 6. Heat and electric are energy-related services. ERM 301 (October 2021), p. 4.

To determine Petitioner's income, MDHHS testified that it relied on Petitioner's State Online Query (SOLQ), which showed that Respondent was receiving \$ [REDACTED] per month in RSDI income. The SOLQ is generated through data exchanges with the Social Security Administration (SSA) and reports point in time information on RSDI, Medicare and Supplemental Security Income (SSI). BAM 801 (January 2021), p. 1. MDHHS stated that Petitioner pays a Part B Medicare premium, which was not excluded from its calculation of Petitioner's income. Thus, the record shows that MDHHS relied on Petitioner's gross RSDI income, rather than his net income as required by policy. ERM 206, pp. 4-5. To calculate Petitioner's net income for the purposes of SER energy

assistance, Petitioner's payments for health insurance coverage, such as his Medicare Part B premium, should have been excluded. No evidence was admitted that Petitioner was receiving any other income besides the RSDI. Therefore, MDHHS improperly calculated Petitioner's income.

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 MDHHS did not act in accordance with Department policy when it denied Petitioner's SER application.

### **DECISION AND ORDER**

Accordingly, MDHHS's decision is **REVERSED**.

MDHHS 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. Reprocess Petitioner's September 28, 2021, SER application;
2. Issue supplements to Petitioner or his provider(s) for SER benefits he was eligible to receive but did not from September 28, 2021, ongoing; and
3. Notify Petitioner of its decision in writing.

LJ/nr

  
\_\_\_\_\_  
**Linda Jordan**  
Administrative Law Judge

**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**

Sharnita Grant  
25637 Ecorse Rd.  
Taylor, MI 48180

Wayne 18 County DHHS- via electronic  
mail

BSC4- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

**Petitioner**

██████████ - via first class mail  
██████████  
██████████, MI ██████████