



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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Date Mailed: August 31, 2022
MOAHR Docket No.: 22-003138
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 hearing was held on August 17, 2022 via teleconference. Petitioner appeared and represented herself. Debney Lofton, Eligibility Specialist, and Corlette Brown, Hearings Facilitator, represented the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS 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. On ██████████ 2022, Petitioner applied for SER services for assistance with heat and electricity.
2. On July 8, 2022, MDHHS sent Petitioner a SER Decision Notice indicating that Petitioner's SER application was denied because her countable income was higher than the maximum amount allowed for the program (Exhibit A, pp. 16-17).
3. On ██████████, 2022, Petitioner filed a Request for Hearing to dispute the denial of her 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 denied Petitioner's SER application for heat and electricity assistance due to excess income. Pursuant to policy, SER applicants 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 all non-excluded gross income that the applicant 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.* Earned income includes earnings for work as an employee. *Id.*, p. 2. Unearned income includes Social Security benefits, including Retirement, Survivors, Disability Insurance (RSDI) income. *Id.*, p. 1. For RSDI, MDHHS uses the net amount received. *Id.* Net unearned income is 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 a group to be eligible for energy services, the combined monthly net income cannot exceed the standard for SER energy/LIHEAP services for the group size. 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-related services for a group size of one is \$1610.00. ERM 208, p. 6. Heat and electric are energy-related services. ERM 301 (October 2021), p. 4.

MDHHS presented evidence that Petitioner had earned income from [REDACTED] (Employer) and that she received RSDI benefits. Regarding the earned income from Employer, MDHHS presented a Work Number Report, which showed earnings for two weeks in June 2022, totaling \$[REDACTED] and \$[REDACTED] (Exhibit A, pp. 12-13). Based on this information, MDHHS testified that it budgeted \$[REDACTED] in earned income for Petitioner and a mandatory tax deduction of [REDACTED], which brought Petitioner's countable, monthly earned income to \$[REDACTED] (Exhibit A, p. 1). MDHHS also budgeted \$[REDACTED] in unearned income for Petitioner, which it stated was based on her monthly RSDI payments. MDHHS determined that Petitioner's countable earned and unearned income equaled \$[REDACTED], which exceeded the income limit of \$1,610.00. ERM 208, p. 6.

Petitioner objected to the amount MDHHS budgeted for her earned income and testified that she no longer worked at Employer as of the date of the hearing. Petitioner stated that she resigned from Employer due to a neck injury on July 22, 2022. Given that Petitioner stopped working at Employer after she applied and was denied for SER assistance, MDHHS properly included income from Employer in the budget calculation. However, it is unclear from the record how MDHHS arrived at [REDACTED] in monthly earned income from Employer. The Work Number Report shows that Petitioner received fluctuating amounts of income for the weeks ending on June 24, 2022 and July 1, 2022 (Exhibit A, pp. 12, 13). The countable income period for SER is 30 days, beginning on the date that the client applies for SER services, which in this case would be July 1, 2022. ERM 206, p. 1. The Work Number Report indicated that Petitioner was

earning \$ [REDACTED] per hour at Employer (Exhibit A, p. 11), but no information was presented regarding her projected weekly or monthly hours. Without this information, it is not possible to determine if MDHHS properly budgeted Petitioner's earned income during the countable income period.

Regarding unearned income, Petitioner testified that her RSDI was terminated in July 2022 and that her last RSDI payment was in June 2022. Despite Petitioner's assertion, no evidence was presented that Petitioner informed MDHHS that her RSDI had been terminated prior to July 8, 2022, which is the date that MDHHS processed and denied Petitioner's SER application. Therefore, MDHHS properly included the RSDI income in the budget. MDHHS budgeted \$ [REDACTED] for Petitioner, which represents her gross benefit amount. When calculating countable net unearned income for SER, MDHHS is required to deduct Medicare Premiums that will not be reimbursed from the gross amount. ERM 206, pp. 4-5. The record shows that Petitioner was paying a [REDACTED] Part B Medicare Premium (Exhibit A, p. 8). No evidence was introduced to show that MDHHS deducted the Medicare premium from Petitioner's gross RSDI income amount or that it was not required to do so because the premium would be reimbursed.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SER application.

DECISION AND ORDER

Accordingly, MDHHS' 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. Reregister and reprocess Petitioner's [REDACTED], 2022 SER application, requesting verification of earned and unearned income, if necessary;
2. If Petitioner is eligible for benefits, issue supplements to Petitioner or her service providers for any SER benefits that she was eligible to receive but did not from July 1, 2022, ongoing; and
3. Notify Petitioner of its decision in writing.



Linda Jordan
Administrative Law Judge

LJ/tm

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-Electronic Mail :

DHHS
LaClair Winbush
Wayne-District 31 (Grandmont)
17455 Grand River
Detroit, MI 48227

Interested Parties

T. Bair
E. Holzhausen
BSC4
MOAHR

Via-First Class Mail :

Petitioner

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