

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: September 30, 2022
MOAHR Docket No.: 22-003593
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 September 15, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Michelle Buright, Eligibility Specialist, and Nicole Carey, Assistant Payments Supervisor.

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 [REDACTED] 2022, Petitioner submitted a SER application for furnace repair for a group size of one (Exhibit A, pp. 4-8).
2. On March 16, 2022, MDHHS issued a State Emergency Relief Decision Notice to Petitioner, informing her that her SER application for energy related home repairs is denied because her countable income is higher than the maximum amount for the program (Exhibit A, p. 9).
3. Petitioner then applied for Emergency Services (ES) funds. This application was denied, stating that ES funds may not be used for energy services.
4. Petitioner then applied for a policy exception for approval of ES funds.

5. On August 18, 2022, MDHHS issued a State Emergency Relief Decision Notice to Petitioner, informing her that her policy exception was received, and the request was denied due to excess income (Exhibit A, pp. 12-14).
6. On August 19, 2022, Petitioner submitted a request for hearing to MDHHS to dispute the denial of her [REDACTED] 2022, SER application and policy exception denial (Exhibit A, p. 3).

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.

In this case, Petitioner disputes the denial of her SER application for furnace repair. Clients have the right to contest a MDHHS decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. MDHHS provides an administrative hearing to review the decision and determine its appropriateness in accordance to policy. BAM 600 (March 2021), p. 1. The client has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600, p. 6. In this instance, Petitioner requested a hearing on August 19, 2022. Petitioner's initial SER application was denied on March 16, 2022. Petitioner's policy exception was denied on August 18, 2022. Therefore, the undersigned is only able to review MDHHS' decision regarding the denial of the policy exception.

SER assistance for energy services is available to low-income households that meet eligibility requirements. Funding for energy services assistance is provided through the Low-Income Home Energy Assistance Program (LIHEAP). ERM 301 (December 2021), p. 1. Eligible energy crisis includes when the homeowner's furnace is inoperable and in need of repair or replacement, per a statement from a licensed service provider. ERM 301, p. 2. Petitioner provided to MDHHS an estimate indicating that her furnace was in need of repair or replacement (see Exhibit A, p. 18).

In order to receive SER, the income and assets of all household members is budgeted. The household income must be at or below the LIHEAP income limit for the group to qualify for SER. ERM 301, p. 8. The SER Income Need Standard for Energy/LIHEAP Services is \$1,610.00 for a household size of one. ERM 208 (October 2021) p. 6. 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. ERM 208, p. 1. MDHHS determined that Petitioner had excess income and denied her SER application on March 16, 2022 (see Exhibit A, p. 9).

Following the denial of her SER application, Petitioner then applied for Emergency Services (ES). In the majority of cases, SER is sufficient to resolve threats to health and safety. However, due to the nature of emergencies and variations in SER group circumstances, unusual situations may exist which cannot be resolved through SER. ES funds are allocated to each local office to provide assistance when SER will not cover the requested service, or the SER payment will not resolve the emergency. ERM 209 (October 2021), p. 1. Policy specifically states that ES funds may **not** be used to pay energy services, including furnace repair or replacement. ERM 209, p. 2. Therefore, MDHHS denied Petitioner's ES application.

Petitioner then applied for a policy exception that would allow her to be approved for ES funds. MDHHS testified that even if they would grant an exception allowing Petitioner to receive ES funds, they still were required to consider Petitioner's income to determine eligibility. Petitioner is paid bi-weekly. MDHHS testified that they considered Petitioner's gross income from July 9, 2022, and July 23, 2022, totaling \$ [REDACTED]. Next, MDHHS must consider applicable expenses. Earned income is permitted a 25% deduction for withholding taxes in addition to deductions for health insurance, other deductions required as a condition of employment, court ordered child support, and dependent care costs. ERM 206, p. 5. There was no evidence of deductions from Petitioner's employer, health insurance, child support, or dependent care expenses. Therefore, the only deduction applicable to Petitioner is the 25% mandatory withholding taxes calculated at 25% of the gross income or \$ [REDACTED]. After deducting the mandatory withholding taxes, the remaining household earned income is \$ [REDACTED]. After deducting taxes and all other applicable expenses, any unearned income is added to achieve the net countable income. No evidence was presented that Petitioner had any unearned income in her household. Therefore, the Net Countable Income is \$ [REDACTED]. Since this exceeds the SER income limit as discussed above, MDHHS acted in accordance with policy in denying Petitioner's SER policy exception.

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 acted in accordance with Department policy when it denied Petitioner's policy exception to qualify for SER for Energy Assistance.

DECISION AND ORDER

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

DN/nr



Danielle Nuccio

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

Via-Electronic Mail :

DHHS
MDHHS-Wayne-57-Hearings
E. Holzhausen
MOAHR
T. Bair
BSC4

Via-First Class Mail :

Petitioner

[REDACTED]
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[REDACTED], MI [REDACTED]