



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: December 29, 2022
MOAHR Docket No.: 22-004734
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 November 30, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

ISSUE

Did the Department 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 or around [REDACTED] 2022, Petitioner submitted an application requesting SER assistance with rent to prevent eviction. On an unverified date, the Department denied Petitioner's application because she did not have a court summons, order or judgment resulting from an eviction action.
2. On or around [REDACTED] 2022, Petitioner submitted a second application for SER assistance with rent to prevent eviction. With the application, Petitioner submitted a Complaint for Non-Payment of Rent showing a total rent due amount of \$769.62 and a Summons to appear in court on November 2, 2022. (Exhibit B)
3. Petitioner's household size is two. Petitioner is not employed. Petitioner submitted paystubs documenting her husband's earnings for the pay dates of

August 16, 2022, August 23, 2022, September 6, 2022, September 13, 2022, and September 20, 2022. (Exhibit A, pp. 15-19)

4. On or around [REDACTED] 2022, the Department issued a State Emergency Relief Decision Notice, advising Petitioner that her request for SER assistance with rent to prevent eviction was denied because her income/asset copayment is equal to or greater than the amount needed to resolve the emergency. (Exhibit A, pp. 5-7)
5. On or around October 14, 2022, Petitioner requested a hearing disputing the Department's actions with respect to her SER application.
6. Petitioner confirmed that she did not request a hearing to dispute the denial of the [REDACTED] 2022, SER application and her dispute was regarding only the [REDACTED] 2022, SER application.

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 submitted a SER application for assistance with rent to prevent eviction. The Department representative testified that along with the application, Petitioner submitted a Complaint for Non-Payment of Rent showing a total rent due amount of \$769.62 and a Summons to appear in court on November 2, 2022. Petitioner also submitted pay stubs verifying her husband's earnings from employment. On [REDACTED] 2022, the Department sent Petitioner a SER Decision Notice informing her that her request for SER assistance with relocation services in the amount of \$769.62 was denied on the basis that the income/asset copayment is equal to or greater than the amount needed to resolve the emergency. The Department determined that Petitioner had an income copayment of \$1,286.02. Although the SER Decision Notice reflects an additional amount requested for rent to prevent eviction of \$1,556, the Department testified that this amount was in connection with Petitioner's first SER application from [REDACTED] 2022, that Petitioner confirmed she did not dispute the denial of.

SER assists individuals and families to resolve or prevent homelessness with relocation services by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2020), p. 1. An individual will be eligible for SER if a court summons, order, or judgment was issued, which will result in the SER group becoming homeless.

ERM 303, pp. 1-6. Additionally, the Department will complete an SER budget for each request and determine the payment maximums, required payments, income and asset copayment, and client contributions based on the information provided to determine eligibility for SER. ERM 103 (October 2021), pp. 1-7.

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (October 2021), p. 1. A group is eligible for non-energy SER services, such as rent to prevent eviction, with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period **does not** exceed the standards found in Exhibit I, SER Income Need Standards for Non-Energy Services. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. This is the income copayment. ERM 208, p. 1. Cash assets in excess of \$50 will result in an asset copayment. ERM 208, p. 1. The income and asset copayments combined together determine the SER group's total copayment, or the amount the SER group must pay towards their emergency. Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, pp.1 – 2. Thus, if the copayment exceeds the need, the application shall be denied unless good cause is granted. ERM 208, pp. 1-2; ERM 103, p. 4.

In determining a client's monthly income, the Department must consider the actual income the client expects to receive during the SER countable income period, which is the 30-day period beginning on the date the local office receives a signed application. To determine **net** income for SER purposes, the Department must deduct certain expenses of employment, which can include but are not limited to, mandatory withholding taxes (25% of the gross), deductions required by the employer as a condition of employment, and deductions for health insurance. ERM 206 (November 2019), pp. 1-7.

In this case, the Department presented a SER Copayment Details budget showing how the income copayment was calculated. With respect to the income copayment of \$1,286.02, the budget shows that the Department determined Petitioner had earned income of \$██████ which the representative testified consisted of earnings for Petitioner's husband. The Department representative could not explain exactly how the earned income of \$██████ was calculated but testified that the Department relied on the gross income identified on the paystubs submitted by Petitioner which documented her husband's gross earnings of \$██████ paid on August 16, 2022, \$██████ paid on August 23, 2022, \$██████ paid on September 6, 2022, \$██████ paid on September 13, 2022, and \$██████ paid on September 20, 2022. (Exhibit A, pp. 15-19).

Although the SER Copayment Details budget shows that the Department applied a mandatory taxes deduction and the correct \$500 income needs standard based on Petitioner's confirmed household size of two, the Department representative testified that in calculating Petitioner's earned income, gross income was used, which as referenced above, is incorrect as the Department is to consider net income for SER purposes and to take into consideration other deductions required by the employer.

Additionally, it was unclear why the Department considered earnings for Petitioner's husband from August 2022, as this month is not within the 30-day countable income period. Upon review, the Department failed to establish that the total earned income of \$ [REDACTED] or the \$1,286.02 income copayment was properly calculated. Additionally, there was conflicting information provided regarding the amount needed to resolve the emergency. Despite the Department submitting the Complaint and Summons, Petitioner's testimony was such that her past due rent was greater than \$769.62.

Therefore, because of the errors in the calculation of the income copayment, the Department did not act in accordance with Department policy when it denied Petitioner's SER application on the basis that the income/asset copayment was greater than the amount needed to resolve the emergency.

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 did not act in accordance with Department policy when it denied Petitioner's [REDACTED] 2022, SER application.

DECISION AND ORDER

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

THE DEPARTMENT 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 [REDACTED] 2022, SER application;
2. Supplement Petitioner and/or her SER provider for any SER benefits that she was eligible to receive but did not from the application date, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml



Zainab A. Baydoun
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
Susan Noel
Wayne-Inkster-DHHS
26355 Michigan Ave
Inkster, MI 48141
**MDHHS-Wayne-19-
Hearings@michigan.gov**

Interested Parties

BSC4
K Schulze
E Holzhausen
MOAHR

Via First Class Mail :

Petitioner

██████████
██████████
██████████ MI ██████████