



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: December 5, 2022
MOAHR Docket No.: 22-004946
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Robbi Crosby, Eligibility Specialist, and Corlette Brown, Hearings 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 August 12, 2022, the Department received Petitioner’s application for SER assistance with heat and electric listing herself, her son, and her grandchild as household members. On the application, Petitioner also wrote that she had a tree that needed to be removed from her backyard and that both DTE Energy and her homeowner’s insurance were unwilling to cover the costs of removal.

2. Petitioner’s son was employed and had the following earned income in the 30 days prior to application:

July 15, 2022 \$ [REDACTED]
July 29, 2022 \$ [REDACTED]

3. Petitioner receives a Veterans Affairs compensation benefit of \$ [REDACTED] per month.

4. Petitioner receives a gross Retirement Survivors Disability Insurance (RSDI) in the amount of \$ [REDACTED] per month but is also responsible for her Medicare Part B premium of \$238.10 per month.
5. On August 15, 2022, the Department issued a State Emergency Relief Decision Notice to Petitioner informing her that her application had been denied for heat and electric because her countable income was greater than the maximum amount allowed for the program.
6. On October 18, 2022, the Department received Petitioner's request for hearing disputing the denial of her 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's application for SER assistance with heat and electric was denied due to excess income. Low-income households who meet all SER eligibility requirements may receive assistance to help with household heat and electric costs. ERM 301 (December 2021), p. 1. To be eligible, all income of all household members is considered in determining eligibility. ERM 301, p. 6. Countable income includes, but is not limited to, the net amount received of Retirement Survivors Disability Insurance (RSDI) or Supplemental Security Income (SSI) benefits, as well as earned income of all group members. ERM 206 (November 2019), p. 1. SER groups members must use their available income and cash assets to help resolve the emergency. ERM 208 (October 2021), p. 1. Groups include all adults and dependent children who normally live together that actually live together. ERM 201 (October 2020). Since Petitioner included her son, an adult, as a household member, as well as his dependent child as a household member, they are both considered part of the group and the group size is three. A group is eligible for energy services when the combined monthly net income that is received or expected to be received by a group is less than the standard for SER energy services based upon group size. *Id.* If income exceeds the limit, the application is denied. *Id.* Net countable income is determined by subtracting any mandatory withholding taxes, court ordered child support, payments for health insurance, and Medicare premiums that are not reimbursed. ERM 206, pp. 4-5.

Petitioner has a gross VA Benefit of \$ [REDACTED] and a gross RSDI benefit of \$ [REDACTED]. Petitioner also has a Medicare premium expense of \$238.10 per month. Therefore, her net income is \$ [REDACTED]. Her son, a group member, has gross earned income of \$ [REDACTED] for the 30 days prior to application. After deductions for mandatory tax withholdings (25%) for earned income, and there being no evidence of deductions for health insurance, child support or items required for employment, her son's net income is \$ [REDACTED]. Therefore, total household income is \$ [REDACTED]. Finally, Petitioner has a group size of three; therefore, the net income limit applicable to Petitioner for energy services is \$2,878.00 per month. ERM 208, p. 6; ERM 100 (October 2022), p. 4. Petitioner's net income is greater than the energy services income limit for a group size of three and the Department properly denied Petitioner's application for SER assistance with electric.

Petitioner also disputed the Department's failure to authorize SER assistance with tree removal from her yard. SER assistance is available in the following circumstances to applications who meet eligibility criteria: heat and electric costs; payment of arrearages for water, sewer, or cooking gas; deposits required by a utility provider to begin, maintain, or restore water, sewer, or cooking fuel; resolving or preventing homelessness by providing money for rent, security deposits, or moving expenses; house payments such as a mortgage, land contract, property taxes and fees, lot rent, and homeowner's insurance premiums; energy related home repairs; non-energy related home repairs; and burials and cremations. ERM 301 (December 2021); ERM 302 (October 2021); ERM 303 (October 2020); ERM 304 (October 2021); ERM 306 (October 2021) Non-energy related home repairs include repairs to the structure, hot water heater, septic or waste disposal system, doors and windows, extermination services, electrical, plumbing, roofs, wells or water supply systems, and wheel chair ramps. ERM 304, p. 3. Authorization for payment is only made if the repair is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. *Id.* Repairs must restore the home to a safe, livable condition. *Id.* In this case, Petitioner wrote on her application that she had a tree that needed to be removed from the yard and checked the spot on the application for home repairs costing \$600.00 for tree removal. The Department failed to issue a decision regarding Petitioner's eligibility for assistance with tree removal. Per policy, all SER applicants must be informed in writing of the decision made on their application. ERM 103 (October 2021), p. 4. Therefore, the Department did not act in accordance with policy in failing to issue a decision regarding Petitioner's request for tree removal assistance.

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 Department policy when it denied Petitioner's application for SER assistance with heat and electric but did not act in accordance with Department policy when it failed to issue a decision regarding Petitioner's eligibility for SER assistance with tree removal.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED ONLY WITH RESPECT TO THE SER TREE REMOVAL ASSISTANCE.**

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 application for SER assistance with tree removal only;
2. Notify Petitioner in writing of its decision.

AMTM/cc



Amanda M. T. Marler
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 :

Interested Parties

MDHHS-Wayne-31-Grandmont-Hearings
BSC4-HearingDecisions
E. Holzhausen
K. Schulze
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
MI [REDACTED]