



GRETCHEN WHITMER
GOVERNOR

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

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DIRECTOR

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Date Mailed: May 26, 2023
MOAHR Docket No.: 23-001707
Agency No.: ██████████
Petitioner: ██████████

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 April 26, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. Petitioner called her sister, ██████████ as a witness. The Department of Health and Human Services (Department) was represented by Tom Jones, Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) assistance?

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 January 1, 2023, Petitioner's sister, ██████████ moved into Petitioner's home. ██████████ is employed and earning income from ██████████ (Exhibit B)
2. On or around ██████████, 2023, Petitioner submitted an application requesting SER assistance with her outstanding heat and electric bills.
3. On or around March 17, 2023, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her request for SER assistance with heat and electric energy services was denied because the household's countable income is higher than the maximum amount allowed for the program. (Exhibit A, pp. 6-8)

4. On or around March 24, 2023, Petitioner requested a hearing disputing the Department actions with respect to her SER case.

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 disputed the Department's denial of her [REDACTED] 2023 SER application. There was some testimony to indicate that Petitioner also applied for SER assistance in [REDACTED] 2023; however, the hearing request was previously withdrawn with respect to the [REDACTED] 2023 application. With respect to the [REDACTED] 2023 application, the Department representative testified that after including the income for Petitioner's sister, the household had income higher than allowed for the SER program.

Eligible households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. Funding for energy services assistance is provided through the Low-Income Home Energy Assistance Program (LIHEAP). ERM 301 (December 2022), p. 1. When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301, pp. 3-4. The SER should be processed using the past due amount, and current bills that are not subject to shutoff should not be included in the amount needed. ERM 301, pp. 3-5. The Department must verify past due status, threatened shutoff or the need for gas or electricity and must obtain a bill before authorizing a payment. The Department will contact the energy company and can use the Online Resources for Agencies (ORA) to access a client's energy account information and verify the account statement provided on the website in lieu of an actual bill. If the online statement is used, a copy must be retained in the case record. ERM 301, pp.11-13.

SER group members must use their available income and cash assets that will help resolve the emergency and the Department will not authorize a SER payment unless it will resolve the emergency. ERM 208 (December 2022), p. 1. An SER group consists of persons who occupy the same home. Home means the place where the members of the SER group keep their personal belongings and sleep. ERM 201 (October 2022), pp.1-2.

At the hearing, Petitioner disputed the Department's conclusion that her sister was a household group member. Petitioner confirmed that her sister moved into her home on January 1, 2023, and testified that the SER assistance was being requested for services and charges incurred during the time period prior to her sister being a household group member. Petitioner asserted that her sister was not in the household at the time that the heat and electric costs were incurred. Petitioner further asserted that she and her sister had an arrangement whereby her sister would stay with her temporarily until summer and her sister is not contributing to the household expenses. Despite Petitioner's testimony, Petitioner's sister has resided in Petitioner's home since January 2023 and is expected to remain until summer 2023. There was no evidence presented that Petitioner's sister was a renter who lived with the SER group, or that she should be otherwise excluded as a group member, as the emergency would adversely affect her and she would benefit from the application for SER, if approved. Therefore, the Department properly concluded that Petitioner sister is a household group member for SER purposes.

Income eligibility is required for assistance with SER energy services, including heat and electric. All household members are included in the SER group and income of all household members is budgeted. Income verification used for current eligibility for any other Department administered program may be used, if available. ERM 301, pp. 3-8. The Department is to verify and budget all non-excluded gross income the SER group expects to receive during the 30-day countable income period. The Department will not prorate income. ERM 206 (November 2019), pp. 1-7. The first day of the 30-day countable income period is the date the local office receives a signed application. There is no income copayment for energy related services and the group is either eligible or not. 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 LIHEAP income limit based on group size. If the income exceeds the limit, the request must be denied. The SER income need standard for energy/LIHEAP services including heat and electricity for Petitioner's household size of two is \$2,288. ERM 301, pp. 6-8; ERM 208, pp. 1-6.

To determine **net** income from employment or self-employment for SER purposes, the Department must deduct certain expenses of employment from the gross amount received, 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, pp. 1-7.

The Department testified that in concluding Petitioner's household had excess income, it considered only the income for Petitioner's sister from [REDACTED]. The Department representative testified that based on information obtained from the Work Number, an online employment database accessible to the Department, for the months of January 2023 and February 2023, it determined that Petitioner's sister had income of [REDACTED] for the month of February 2023 and [REDACTED] for January 2023. The Department representative did not identify the exact pay dates relied upon and did not provide any response when asked what the total net income attributable to Petitioner's household

was but presented a Work Number printout for review. However, the Work Number submitted does not reflect any pay dates after December 30, 2022. Additionally, it was unclear why the Department considered income received in January 2023 and February 2023, as these months are not within the countable income period, which begins the first date that the Department receives a signed application, or in this case [REDACTED] 2023. Furthermore, the Department representative submitted to the undersigned Administrative Law Judge what was asserted to be an SER Income Budget. However, the document submitted was a copayment budget and did not include any of the income figures testified to. (Exhibit B) Additionally, the budget submitted identified self-employment income of [REDACTED] that was unexplained by the Department. (Exhibit B). Upon review, although the Department properly determined that Petitioner's sister was a household group member for purposes of the SER program and that her income is countable, the Department failed to establish that the household had income in excess of the \$2,288 income limit based on the two-person group size.

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] 2023, 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. Reregister and process Petitioner's [REDACTED] 2023, SER Application for assistance with heat and electric services to determine her eligibility for SER;
2. If determined eligible for SER, 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

