



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: June 6, 2023
MOAHR Docket No.: 23-001974
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 May 4, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

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 February 7, 2023, Petitioner submitted an application requesting SER assistance with his outstanding heat and electric bills. On the application, Petitioner reported that he was married, and his household included himself and his spouse, [REDACTED]. Petitioner reported that he is employed, works 40 hours per week, and makes approximately \$ [REDACTED] every two weeks. On the application, Petitioner did not report any income or employment for his wife. (Exhibit B)
2. On or around February 8, 2023, the Department sent Petitioner a State Emergency Relief Decision Notice informing him that his 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 B)

3. On or around March 16, 2023, Petitioner submitted an application requesting SER assistance with his outstanding heat and electric bills. On the application, Petitioner reported his earnings and that he is married, but did not identify his wife's name or her income. (Exhibit B)
4. On or around March 16, 2023, the Department sent Petitioner a Verification Checklist (VCL) instructing him to submit proof of his income and proof of his wife's Social Security Number by March 23, 2023. (Exhibit A)
5. It was unclear whether the Social Security Number was provided, as the Department again excluded Petitioner's wife from the household.
6. On or around March 29, 2023, the Department sent Petitioner a State Emergency Relief Decision Notice informing him that his 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)
7. On or around April 5, 2023, Petitioner requested a hearing disputing the Department's denial of his 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 disputed the Department's denial of his February 7, 2023, and March 16, 2023, SER applications, both of which were denied for excess income. The Department representative testified that although Petitioner reported on his February 7, 2023, SER application that his wife was a member of his household, Petitioner did not report that his wife was a member of his household on the March 16, 2023, SER application. Therefore, the Department asserted that Petitioner's wife was improperly excluded from the household. The Department relied only on Petitioner's earnings in making its determination that the household had income greater than the income limit for SER.

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 a bill must be obtained 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 testified that he is married and that his spouse is a member of the household. Petitioner testified that he is employed █ hours a week, earns \$█ per hour and that he is paid every two weeks. While Petitioner's wife's earnings were not included in the SER income determination, Petitioner testified that his wife is employed for the federal government and that her monthly earnings are three times greater than his monthly. Based on the information presented, Petitioner's household size for SER purposes is two.

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.

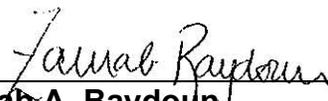
The Department testified that in concluding Petitioner's household had excess income, it considered only the income for Petitioner and specifically relied upon the paystubs submitted by Petitioner, which appeared to have gross income consistent with Petitioner's testimony that he is paid \$[REDACTED] per hour and works on average [REDACTED] hours per week with some overtime. The Department representative testified that based on information obtained from the paystubs provided, Petitioner's gross income for the paycheck dated February 17, 2023, was \$[REDACTED], and for the paycheck dated March 3, 2023, was \$[REDACTED]. This results in gross income of \$[REDACTED] prior to any applicable deductions. A consideration of the mandatory withholding tax of 25%, results in income of \$[REDACTED]. Petitioner's pay stubs indicate additional minor deductions for health insurance which do not appear to have been considered by the Department. However, as referenced above, the SER income need standard for energy/LIHEAP services including heat and electricity for Petitioner's household size of two is \$2,288. While it is possible that Petitioner's earnings alone could result in net income below the \$2,288 income need standard, this is prior to any inclusion of Petitioner's wife's earnings. Because Petitioner's wife's earnings should have been included in the calculation of net income for SER purposes, and in light of Petitioner's testimony that his wife earns three times the amount of his monthly income, Petitioner's household would be ineligible for SER, as the combined net income for SER purposes will be greater than the \$2,288 income needs standard for their two-person household.

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 February 7, 2023, and March 16, 2023, applications for SER assistance, as the household's countable income is higher than the maximum amount allowed for the program.

DECISION AND ORDER

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

ZB/



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

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Interested Parties

BSC4

E Holzhausen

J McLaughlin

MOAHR

Via First Class Mail:

Petitioner

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