



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: August 3, 2023
MOAHR Docket No.: 23-003208
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on July 5, 2023 via teleconference. Petitioner appeared and represented herself. Corlette Brown, Hearings Facilitator, and Markita Blyden, Eligibility Specialist, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

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 May 17, 2023, Petitioner applied for SER for assistance with heat and electricity and listed six people in her household (Exhibit A, pp. 13-20).
2. On May 30, 2023, MDHHS issued a State Emergency Relief Decision Notice denying Petitioner's application for SER for heat and non-heat electricity (Exhibit A, p. 4). The reason for the denial was that Petitioner's countable income exceeded the income limit for the program (Exhibit A, p. 5).
3. On June 1, 2023, Petitioner submitted a request for hearing to dispute the denial of her application for SER (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. MDHHS administers SER pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, MDHHS denied Petitioner's SER application for assistance with heat and electricity payments because it determined her income exceeded the income limit for the program.

SER group members must use their available income and cash assets to help resolve the emergency. ERM 208 (December 2022), p. 1. To determine whether an individual is eligible for SER, MDHHS must verify and budget all non-excluded gross income the SER group expects to receive during the countable income period. ERM 206 (November 2019), p. 1. The countable income period is 30 days, beginning on the date the application is received. *Id.* For Retirement, Survivors, Disability Insurance (RSDI), MDHHS must use the net amount received and exclude reimbursement of Medicare premiums. *Id.* Net unearned income must be determined by deducting the following from the gross amount received: (i) mandatory withholding taxes; (ii) court-ordered child support; (iii) payments for health insurance; and (iv) Medicare premiums that will not be reimbursed. ERM 206, pp. 4-5.

There are no income copayments for SER energy assistance. ERM 208, p. 1. With respect to income, clients are either eligible or they are not. ERM 208, p. 1. For a group to be eligible for energy services, the combined monthly net income cannot exceed the standard for SER energy/LIHEAP services for the number of group members. ERM 208, p. 1. If the income exceeds the limit, the request must be denied. ERM 208, p. 1. The SER income need standard for energy/LIHEAP services for a group-size of six is \$4,648.00. ERM 208, p. 6. Heat and electric are energy-related services. ERM 301 (October 2021), p. 4.

MDHHS determined that Petitioner's monthly income was over the income limit based on the receipt of RSDI, SSI and guardianship/foster care payments (Exhibit A, p. 1). The record shows that Petitioner receives \$2,623.90 in gross RSDI (Exhibit A, p. 6). Another household member receives \$655.00 in gross RSDI (Exhibit A, p. 9). MDHHS stated that Petitioner also receives \$500.00 in a guardianship/foster care payment (Exhibit A, p. 1). Adding these amounts together equals \$3,778.90. This amount does not exceed the income limit for a group size of six, which is \$4,648.00. ERM 208, p. 6. It is unclear why MDHHS determined that Petitioner was over the income limit. There was no evidence of other income that MDHHS considered. Additionally, MDHHS should have

used the *net income* for RSDI, instead of the gross. It is unclear whether MDHSH used net income or gross income when calculating the monthly income amount. However, even using the gross RSDI amount, Petitioner's household income did not exceed the income limit for the program based on the evidence provided.

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 did not act in accordance with Department policy when it denied Petitioner's SER request.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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. Re-register and reprocess Petitioner's May 17, 2023 SER application;
2. If eligible, issue supplemental payments to Petitioner or Petitioner's services providers; and
3. Notify Petitioner of its decision in writing.

LJ/tm



Linda Jordan
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
Corlette Brown
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Detroit, MI 48227
**MDHHS-Wayne-31-Grandmont-
Hearings@Michigan.gov**

Interested Parties
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Via-First Class Mail :

Petitioner
[REDACTED]
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