



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]  
[REDACTED] MI [REDACTED]

Date Mailed: August 18, 2023  
MOAHR Docket No.: 23-003375  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 19, 2023 via teleconference. Petitioner appeared and represented herself. Valarie Foley, Hearings Facilitator, 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 5, 2023, Petitioner applied for SER for assistance with heat and non-heat electricity payments.
2. On May 9, 2023, MDHHS sent Petitioner a State Emergency Relief Decision Notice indicating that Petitioner's application for SER for assistance with heat and non-heat electricity was denied (Exhibit A, p. 5). The reason for the denial was that Petitioner's countable income was higher than the maximum allowed for the program (Exhibit A, p. 6).
3. On June 15, 2023, Petitioner filed a Request for Hearing to dispute the denial of her application for SER (Exhibit A, p. 4).

## **CONCLUSIONS OF LAW**

The State Emergency Relief (SER) 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 application for SER because it determined that Petitioner's household income was over the limit for the program. Petitioner disputed MDHHS' calculation of her household income.

To be eligible for SER services, the applicant must (i) complete the application process; (ii) meet financial and non-financial requirements; (iii) have an emergency which threatens health or safety and can be resolved through the issuance of SER; (iv) take action within their ability to help themselves; (v) not have caused the emergency; and (vi) cooperate in providing eligibility information to MDHHS. ERM 101 (March 2013), p. 1. Applicants for SER must cooperate with the application process, provide verifications, and answer all questions truthfully and completely. ERM 103 (October 2022), p. 1. MDHHS is required to help in completing forms, answering inquiries, and obtaining verifications. *Id.*

Low-income households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (April 2023), p. 1. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP). *Id.* An energy crisis includes situations in which an individual or household has a past due account or shut-off notice on an energy bill for his or her household. *Id.* 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. *Id.*, p. 4. The SER should be processed using the past due amount. *Id.* Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. *Id.*

To qualify for SER energy services, income of all household members must be budgeted. ERM 301, p. 7. There is no income copayment for energy-related services. *Id.* The household income must be at or below the LIHEAP income limit for the group to qualify for SER. *Id.* The income limit for SER energy LIHEAP services is 150% of the Federal Poverty Level (FPL). ERM 208, p. 6.

After applying for SER, MDHHS is required to verify certain information. Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (October 2022), p. 6. The due date is eight calendar days from the date the DHS-3503, SER Verification Checklist is generated. *Id.* The client must make a reasonable effort to obtain required verifications. *Id.* The specialist must assist if the applicant needs and requests help. *Id.* If neither the client nor the specialist can obtain the verifications despite a reasonable effort, MDHHS must use the best available information. *Id.* If no evidence is available, the specialist must use their best judgment. *Id.* Verifications are considered timely if received by the date they are due. *Id.*

In this case, MDHHS determined that Petitioner was ineligible for SER energy services because she exceeded the income limit for the program. MDHHS based its determination on Petitioner's report that her husband earns \$ [REDACTED] monthly in self-employment income and has \$16,000.00 in expenses. MDHHS further stated that it calculated the household income by budgeting 25% of the self-employment income as expenses because Petitioner did not submit proof of expenses. MDHHS stated that it only received two pages of the household's tax return. However, when asked whether MDHHS requested additional verification of tax information or expenses, MDHHS answered in the negative. Petitioner testified that she submitted the complete 2022 1040 U.S. Individual Tax Return, including the Profit and Loss statement (Exhibit 1, pp. 1-25).

The record shows that MDHHS did not properly request additional verifications from Petitioner before determining eligibility. MDHHS is required to tell applicants what verifications are necessary, how to obtain them and the deadline for submitting them. ERM 103, p. 6. Because MDHHS did not request additional verification from Petitioner, it did not show that it accurately calculated Petitioner's income for the purposes of SER budgeting.

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

### **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. Reregister and reprocess the May 5, 2023 SER application, requesting additional verifications from Petitioner if necessary;
2. If Petitioner is eligible for benefits, issue supplements to Petitioner or her service provider(s) for any SER benefits that she was eligible to receive but did not from the date of eligibility ongoing; and
3. Notify Petitioner of its decision in writing.



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**Linda Jordan**  
Administrative Law Judge

LJ/tm

**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-  
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**Interested Parties**

J. McLaughlin  
E. Holzhausen  
BSC4

**Via-First Class Mail :**

**Petitioner**

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