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GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR

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Date Mailed: February 6, 2024
MOAHR Docket No.: 23-008519
Agency No.: ██████████
Petitioner: ██████████

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 February 1, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) failed to appear for the hearing.

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 ██████████ 2023, Petitioner submitted an application for SER assistance with heat and electric.
2. On October 31, 2023, the Department issued a State Emergency Relief Decision Notice (SERDN) to Petitioner advising her that she was ineligible for SER but provided an incorrect reason.
3. On November 21, 2023, the Department received Petitioner's request for hearing disputing the denial of SER.
4. After reviewing Petitioner's request for hearing, the Department issued a new and corrected SERDN to Petitioner advising her that the reason for her SER ineligibility

was because her income exceeded the income limit for SER assistance with heat and electric.

5. Petitioner receives a Social Security Administration (SSA) benefit of [REDACTED] per month and pays \$164.00 per month for her Medicare premiums.
6. Petitioner lives in her household with herself, her niece, her niece's husband, and their [REDACTED] child. They do not have any sources of income, but Petitioner's niece is responsible for an unknown amount of child support each month.

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 (October 2023), p. 1. To be eligible, all income of all household members is considered in determining eligibility. ERM 301, pp. 7-8. 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 (October 2023), 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 2023). Petitioner's niece, niece's husband, and their child live with Petitioner; therefore, they have a group size of four. 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 had an SSA benefit of [REDACTED]. Petitioner also has a Medicare premium expense of \$164.00 per month. Therefore, her net income is [REDACTED]. No one else has any form of income in the household. The net income limit applicable to Petitioner

for energy services is \$3,750.00 per month. ERM 208, p. 6; ERM 100 (October 2023), p. 4. Petitioner's net income is less than the energy services income limit for a group size of four and the Department improperly denied Petitioner's application for SER assistance with electric.

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 SER application due to exceeding the income limit.

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. Reprocess Petitioner's SER application dated [REDACTED] 2023;
2. If otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received; and,
3. 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-Oakland-6303-Hearings
BSC4-HearingDecisions
E. Holzhausen
J. McLaughlin
MOAHR

Via-First Class Mail :

Petitioner

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