



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: July 2, 2024  
MOAHR Docket No.: 24-004951  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 June 26, 2024, via Teams. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor.

### **ISSUE**

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

### **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 April [REDACTED] 2024, Petitioner submitted an application for SER benefits for assistance with her energy services (Exhibit A, pp. 4-10).
2. Petitioner's household consisted of her herself, her husband and their two children.
3. Petitioner had income from employment (Exhibit A, pp. 12-16).
4. Petitioner's husband had income from employment (Exhibit A, p. 8).
5. On April [REDACTED] 2024, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her SER application was denied (Exhibit A, pp. 43-45).
6. April 26, 2024, Petitioner submitted a request for hearing disputing the Department's actions.

## **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 submitted an application for SER benefits on April [REDACTED] 2024, for assistance with energy-related services. The Department determined Petitioner had excess income and denied her SER application.

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (December 2019), p. 1. There are no income copayments for SER energy services. 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 that is received or expected to be received by all group members in the 30-day countable income period, 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 four is \$3,750. ERM 208, p. 6. Heat and electric are energy-related services. ERM 301 (May 2021), pp. 3-4).

Net unearned income must be determined by deducting all of the following from the gross amount received: (i) mandatory withholding taxes; (ii) court ordered child support paid, including arrears, but not more than the amount ordered by the court. There is no deduction is made for paid, voluntary child support; (iii) payments for health insurance; and (iv) Medicare premiums that will not be reimbursed. ERM 206 (November 2019), pp. 4-5.

The Department presented a work number report from Petitioner's income from employment. The document shows Petitioner's gross income for the 30 days prior to her SER application but does not show the net income. The Department testified that Petitioner reported in her SER application that her husband earned \$2,000 on a biweekly basis. Petitioner stated at the hearing that the \$2,000 figure was her husband's gross earnings. The Department stated that it used the work number report to determine Petitioner's income and the statements made by Petitioner in the SER application to determine Petitioner's husband's income.

The Department failed to establish that it properly denied Petitioner's SER application. The Department is to use net income for determining SER eligibility, not gross income.

The work number did not reflect Petitioner's net earnings. Therefore, it is evident the Department used Petitioner's gross earnings. Additionally, the Department testified that it sent Petitioner a Verification Checklist (VCL) on April [REDACTED] 2024, requesting verification of Petitioner's husband's income, but the SER application was denied on the same date. The Department testified that it used the statement in the SER application that Petitioner's husband earned \$[REDACTED] on a biweekly basis. However, that is the gross income figure. Therefore, the Department did not properly calculate Petitioner's net household income when determining her SER eligibility. Thus, the Department failed to establish that it properly denied Petitioner's SER application.

### **DECISION AND ORDER**

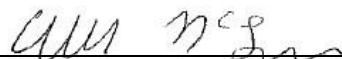
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SER application.

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. Reinstate and reprocess Petitioner's April [REDACTED] 2024 SER application;
2. If Petitioner is eligible for SER benefits, issue benefits in accordance with Department policy; and
3. Notify Petitioner of its SER decision in writing.

EM/th

  
\_\_\_\_\_  
**Ellen McLemore**  
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**  
Yaita Turner  
Oakland County Southfield District III  
**MDHHS-Oakland-6303-Hearings@michigan.gov**

**McLaughlin**

**HolzhausenE**

**BSC4HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Petitioner**

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