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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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DIRECTOR

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Date Mailed: June 6, 2022
MOAHR Docket No.: 22-001632
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 25, 2022. The Petitioner appeared and represented himself. The Department of Health and Human Services (MDHHS) was represented by Juanita Munoz, Hearings Facilitator.

ISSUE

Did MDHHS properly process Petitioner's application for State Emergency Relief (SER) and deny the application due to excess income?

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 ██████████ 2022, Petitioner applied for SER for assistance in paying his heat and electricity bills. Petitioner is a group size of three, consisting of his wife, ██████████ (Wife), minor child, and himself.
2. On March 11, 2022, MDHHS issued a State Emergency Relief Decision Notice to Petitioner, informing him that he is required to make a co-payment of \$50.05 to his heat bill before MDHHS will issue SER benefits on his behalf. Proof that the copayment was made was due to MDHHS by March 2, 2022 (Exhibit A, pp. 7-8).
3. On April 5, 2022, Petitioner made the copayment of \$50.05 to DTE Energy (Exhibit A, p. 9).
4. Petitioner is employed at ██████████ (Employer) (Exhibit A, p. 10).

5. Wife is employed at [REDACTED]. (Wife Employer 1), [REDACTED] [REDACTED] (Wife Employer 2) and [REDACTED]. (Wife Employer 3) (Exhibit A, pp. 11-18).
6. On April 13, 2022, MDHHS issued a State Emergency Relief Decision Notice to Petitioner, informing him that his SER application was denied due to excess income (Exhibit A, pp. 19-20).
7. On April 13, 2022, Petitioner submitted a timely filed hearing request disputing the denial of his SER application (Exhibit A, p. 4).

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 applied for SER for payment towards his outstanding heat and electricity bills. Petitioner's SER application was denied due to excess household income. Petitioner requested a hearing to dispute this denial.

SER helps to restore or prevent shut off of a utility service specified in this item when service is necessary to prevent serious harm to SER group members. ERM 302 (October 2021), p. 1. A household may receive one SER payment for heat and one for non-heat electricity, up to the SER cap, each fiscal year based on the SER Service Request Date. ERM 301 (December 2021), p. 1. SER group members must use their available income and cash assets that will help resolve the emergency. MDHHS is responsible for verifying information, certifying the eligibility results and authorizing the SER payment. 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 for the number of group members. If the income exceeds the limit, the SER request must be denied. ERM 208 (October 2021), p. 1. The SER income need standard for energy services for a group size of three is \$2,745.00. ERM 208, p. 6. Heat and electric are energy-related services. ERM 301 (December 2021), pp. 3-4).

Net income from employment or self-employment must be determined by deducting allowable expenses of employment from the gross amount received. ERM 206, p. 5. Expenses of employment are limited to the following: (i) mandatory withholding taxes

(25 percent of the gross); (ii) deductions required by employer as a condition of employment; (ii) deductions for health insurance (iii) court-ordered child support paid, including arrears. The expense amount cannot exceed the court ordered amount. No deduction is made for paid, voluntary child support; (iv) the cost of dependent care for either a dependent child who is less than 13 years old or a person who is 13 years old or older who needs care due to a mental or physical impairment. ERM 206 (November 2019) pp. 5-6.

MDHHS was unable to testify as to the income amounts relied upon in determining Petitioner's eligibility and was unable to testify as to how the income amounts were calculated. However, in reviewing the 30-day countable income period, Petitioner received an earned income payment of \$[REDACTED] on January 7, 2022, \$[REDACTED] on January 21, 2022, and \$[REDACTED] on January 28, 2022. Wife received \$[REDACTED] on January 28, 2022 from Wife Employer 1, \$[REDACTED] on January 7, 2022 and \$[REDACTED] on January 21, 2022 from Wife Employer 2, and \$[REDACTED] on January 7, 2022 from Wife Employer 3. Therefore, Petitioner's combined gross income in the 30-day countable income period was \$[REDACTED]. Reducing Petitioner's gross income by the mandatory tax withholding of 25% results in \$[REDACTED]. This exceeds the income limit for a group size of three of \$2,745.00. Therefore, MDHHS acted in accordance with policy in denying Petitioner's SER application due to excess income.

Petitioner also expressed concern at the hearing that his SER application was not processed timely. The SER standard of promptness is 10 business days, beginning with the date the signed SER application is received in the local office. ERM 103 (October 2021), p. 5. MDHHS conceded at the hearing that Petitioner's application was not processed in accordance with policy. However, given that Petitioner still had excess income to be eligible for SER, MDHHS' error is ultimately harmless.

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 SER application due to excess income.

DECISION AND ORDER

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

DN/mp



Danielle Nuccio
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 :

MDHHS-Wayne-41-Hearings
E. Holzhausen
MOAHR
T. Bair
BSC4

Via-First Class Mail :

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]