



GRETCHEN WHITMER
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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[REDACTED]

Date Mailed: April 24, 2024
MOAHR Docket No.: 24-002135
Agency No.: [REDACTED]
Petitioner: [REDACTED] [REDACTED]

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 March 27, 2024, from Lansing, Michigan. [REDACTED] [REDACTED] the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by Carlos Ibaigan, Assistance Payments Worker (APW) and Margie Thompson, Assistance Payments Supervisor (APS).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-41.

ISSUE

Did the Department properly determine Petitioner's eligibility 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 February [REDACTED] 2024, Petitioner applied for SER for assistance with rent to prevent eviction. Petitioner listed himself as the only household member. (Exhibit A, pp. 8-20)
2. On February [REDACTED] 2024, a Verification Checklist was issued to Petitioner requesting verification of home rent and required payments for shelter with a due date of February 14, 2024. (Exhibit A, pp. 22-23)

3. On February █ 2024, the Department called Petitioner to confirm assets and household members. (Exhibit A, p. 1)
4. The Department verified and budgeted income from Social Security Administration (SSA) issued benefits for both household members, Petitioner and another adult residing in the home, M.S. (Exhibit A, pp. 24-30)
5. The Department determined that the household had a need for \$█ but had not made \$█ in required payments (shortfall), therefore, the unmet need was \$█ The Department also determined that Petitioner would have had a co-payment of \$█ (Exhibit A, pp. 31-33)
6. On February █ 2024, a SER Decision notice was issued to Petitioner denying the SER request because the total of the copayment and shortfall amounts was greater than the amount needed to resolve the emergency. (Exhibit A, pp. 34-38)
7. On February 20, 2024, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 3-6)

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.

The Department must determine SER eligibility for the group as a whole. The Department is to verify income, assets and potential resources of all group members. ERM 201, October 1, 2023, p. 1.

A single SER group consists of persons who occupy the same home. Home means the place where the members of the SER group keep their personal belongings and sleep. ERM 201, October 1, 2023, p. 1.

Adults and dependent children who normally live together are in the same SER group. ERM 201, October 1, 2023, p. 1.

Regarding persons that can be excluded from the group, policy states:

Excluded Group Members

Do not include the following persons in the SER group.

- Visitors in the home who do not normally live with the SER group.
- Renters who live with the SER group, provided a fair market rental rate is paid. Include the rental income in determining the SER group's eligibility.
- The SER group's landlord, provided the group pays fair market rent to live in the home.

See the most current Fair Market Rents online at Fair Market Rents (40th PERCENTILE RENTS) | HUD USER.

- A person physically present in the home who claims and verifies that they do not have any responsibility for meeting household emergencies. A person who desires exclusion on this basis has the burden of providing proof of the following:
 - The emergency does not adversely affect the person requesting exclusion.
 - The person will not benefit if the group's application for SER is approved.

Example: A group of five adults share an apartment. The group includes a husband and wife and three unrelated persons. The husband dies, and the wife applies for SER burial assistance. Exclude the other three unrelated persons from the SER group for this service.

ERM 201, October 1, 2023, p. 1.

SER relocation services includes providing assistance with rent arrearage. ERM 303, October 1, 2022.

SER may not assist a group who failed to use their available money to prevent an emergency. A client-caused emergency is when an SER group fails to pay required payments for the six-month period prior to the month of application. Include all members who were in the home and not excluded for each month. ERM 204, October 1, 2023.

If an application is made for Cooking Gas, Rent to Prevent Eviction, Rent to Relocate, Security Deposit, Moving Expenses, Mortgage/Land Contract, Home

Owners Insurance, or Mobile Home Lot Rent, a determination of required payments must be made. Required payments are determined based on the group size, the group's income and the obligation to pay for the service that existed during each month of the six months prior to application; see ERM 204, ERM 302, ERM 303, and ERM 304. If the client failed without good cause to make required payments, a shortfall amount is determined. The client must pay the shortfall amount toward the cost of resolving the emergency. Verification that the shortfall has been paid must be received before any SER payment can be made. ERM 208, October 1, 2023, p. 4. The Shelter Obligation Amount is the amount the household is obligated to pay for their housing costs each month. The Paid Amount field is the amount that was actually paid for the 6 months prior to the SER application. ERM 208, October 1, 2023, p. 4.

Good cause may exist as a basis for an applicant's failure to prevent an emergency. Good cause is determined separately for each of the six months. ERM 204, October 1, 2023, p. 1. The policy indicates there are two types of good cause:

Good Cause - Failure to Meet Obligations

Good cause for failure to meet obligations for shelter or cooking gas exists if:

- The SER group's net countable income from all sources during each month the group failed to pay their obligations was less than the amount shown for the SER group size in the good cause table in this item.
- The income was not reduced by a disqualification of SSI or department benefits for failure to comply with a program requirement.

Note: This includes income of people who were in the group during the required payment period.

Good Cause - Unexpected Expenses

If the emergency resulted from unexpected expenses related to maintaining or securing employment, verify expenses for each month the group failed to pay their obligations. The employment related expenses must equal or exceed the monthly obligation. Payment differences are the responsibility of the SER group.

ERM 204, October 1, 2023, p. 2.

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208, October 1, 2023, p. 1. Regarding the asset copayment,

policy states that in most cases cash assets in excess of \$15,000 will result in a denial. Regarding the income copayment, A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in the SER Income Need Standards for All Non-Energy Services (Except Water/Sewer) at the end of this item. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. This is the income copayment. ERM 208, October 1, 2023, p. 1.

The income and asset copayments combined together determine the SER group's total copayment. The total copayment is the amount the SER group must pay toward their emergency. Copayment amounts are deducted from the cost of resolving the emergency. The policy provides examples including this scenario: the applicant has an eviction for \$100. The shortfall copayment is \$15 and the income copayment is \$100. Subtract the total \$115 copayment from the \$100 need. SER is denied because the copayment exceeds the need. ERM 208. October 1, 2023, p. 2.

In this case, the Department determined there was a group size of two. The Department verified and budgeted income from SSA issued benefits for both household members, Petitioner and the other adult residing in the home, M.S. (Exhibit A, pp. 24-30). The Department determined that the household had a need for \$[REDACTED] but had not made \$[REDACTED] in required payments (shortfall), therefore, the unmet need was \$[REDACTED]. The Department also determined that Petitioner would have had a co-payment of \$[REDACTED] (Exhibit A, pp. 31-33). On February 14, 2024, a SER Decision notice was issued to Petitioner denying the SER request because the total of the copayment and shortfall amounts was greater than the amount needed to resolve the emergency. (Exhibit A, pp. 34-38).

Petitioner explained that he got behind in rent because his identity was stolen resulting in the loss \$[REDACTED] (Exhibit A, pp. 3-6; Petitioner Testimony). Petitioner also asserted that the correct group size is one, just himself, and the determination should have been based on just his income. Petitioner did not dispute that M.S. was living in the home. Petitioner explained that he cannot count on her income because M.S. has other bills that she is paying. Petitioner does not think it is right to count M.S. as a household member and consider her income. He is just trying to help M.S. out and cannot use her income. (Petitioner Testimony).

The Department's determination was in accordance with the above cited ERM policies. The other adult residing with Petitioner is a required group member and her income was required to be considered. M.S. did not meet any of the criteria in the ERM 201 policy to be excluded. M.S. is not a visitor, renter, or landlord. Even in M.S. verified that she did not have any responsibility for meeting household emergencies, the potential eviction would adversely affect her, and she would benefit from the SER application being approved to provide assistance with rent to prevent eviction. The income of M.S. was also required to be considered for a potential good cause determination, and Petitioner's circumstances did not meet the good cause criteria found in the ERM 204 policy.

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 determined Petitioner's eligibility for SER.

DECISION AND ORDER

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

CL/dm



Colleen Lack
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
Renee Olian
Kalamazoo County DHHS
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MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
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