



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: May 23, 2024  
MOAHR Docket No.: 24-003399  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 April 29, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Rosemary Molsbee-Smith, Eligibility Specialist.

### **ISSUE**

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) assistance with rent to prevent eviction?

### **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 or around [REDACTED] 2023, Petitioner submitted an application requesting SER assistance with rent to prevent eviction in the amount of \$1,200.
2. On the application, Petitioner reported that her household size is three and that she is employed an average of 25 hours per week at the [REDACTED] and is paid about [REDACTED] per hour, once weekly. (Exhibit A, pp. 7-13)
3. On or around October 20, 2023, the Department sent Petitioner a State Emergency Relief Decision Notice, advising her that the Department approved \$410 towards her \$1,200 request for assistance with rent to prevent eviction and that she was required to make a \$790 total copayment ([REDACTED] income/asset copayment and \$689.60 contribution) towards her request for assistance and

provide proof that this payment has been made prior to November 7, 2023, or the Department would not make its approved payment. (Exhibit A, pp. 14-16)

4. On November 7, 2023, Petitioner submitted to the Department verification that she made her required total copayment. (Exhibit A, p. 17)
5. The Department did not make its approved \$410 towards Petitioner's request for SER assistance with rent to prevent eviction.
6. On November 17, 2023, Petitioner submitted additional verification to the Department from her landlord that she had timely made her required copayment. (Exhibit A, pp. 18-19)
7. The Department conceded that Petitioner had timely submitted sufficient proof that she made her \$790 total copayment towards her request for SER assistance and further conceded that the Department did not pay its approved \$410.
8. On or around March 19, 2024, Petitioner requested a hearing disputing the Department's failure to timely process her SER application and the Department's failure to make its approved \$410 payment towards her request for SER assistance with rent to prevent eviction. (Exhibit A, p.5)
9. The Department reprocessed Petitioner's [REDACTED] 2023, application in order to make its approved \$410 payment to Petitioner's landlord.
10. The Department issued a State Emergency Relief Decision Notice dated April 3, 2024, denying Petitioner's application for SER because it determined that Petitioner's shelter was not affordable according to SER requirements. The Department did not make any payment to Petitioner's landlord.

### **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 disputed the Department's processing and denial of her [REDACTED] 2023, SER application with rent to prevent eviction.

SER assists individuals and families to resolve or prevent homelessness with relocation services by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2022), p. 1. The Department will complete an SER budget for each request and determine the payment maximums, required payments, income and asset copayment, and client contributions based on the information provided to determine eligibility for SER. ERM 103 (October 2023), pp. 1-7. The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. Prior to authorizing the Department's portion of the cost services, verification that the contribution has been paid must be received before any SER payment can be made. Department policy provides that if the SER group meets all eligibility criteria but has an income or asset copayment, shortfall, and/or contribution, verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made and the client must reapply. ERM 208 (October 2023); ERM 103, p. 4.

Housing affordability is a condition of eligibility for SER assistance with relocation services. ERM 303, p. 4; ERM 207 (October 2020), p. 1. SER is only approved if the group has sufficient income to meet its ongoing housing obligation, which includes the total amount the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. Renters can have a higher total housing obligation if heat, electricity and/or water/cooking gas are included. ERM 207, p. 1. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. The Department will deny the SER if the group does not have sufficient income to meet their total housing obligation, which cannot exceed 75% of the group's total net countable income. ERM 207, pp. 1-3.

In this case, Petitioner applied for SER assistance with relocation services, specifically, rent to prevent eviction. The Department issued a State Emergency Relief Decision Notice on October 20, 2023, approving \$410 towards Petitioner's \$1,200 request for assistance with rent to prevent eviction and informing Petitioner that she was required to make a \$790 total copayment towards her request for assistance and provide proof that this payment has been made prior to November 7, 2023, or the Department would not make its approved payment. (Exhibit A, pp. 14-16).

During the hearing, the Department conceded that Petitioner had timely submitted sufficient proof that she made her \$790 total copayment towards her request for SER assistance and further conceded that the Department did not pay its approved \$410. The Department representative testified that she was asked by her supervisor to reinstate the application and to process the approved payment to Petitioner's landlord. However, when she reprocessed the application, she determined that Petitioner was ineligible for SER because her shelter was not affordable. The Department did not make its approved \$410 payment and asserted that the October 20, 2023, State Emergency Relief Decision Notice was issued in error. The Department then issued a State Emergency Relief Decision Notice on April 3, 2024, denying Petitioner's application for SER on the basis that her shelter is not affordable.

At the hearing, the Department representative attempted to explain how the affordability determination was made. However, the testimony was unclear and inconsistent with the Department's policy. The Department representative initially testified that housing obligation is determined by taking Petitioner's gross income and multiplying by 33%. Later in the hearing, the Department representative testified that policy requires the Department to take the six-month average of Petitioner's income and multiply it by 33%. These calculations are not supported by the Department's policy. The Department testified regarding and presented paystubs for review showing Petitioner's earnings for the pay dates of September 15, 2023, September 22, 2023, September 29, 2023, October 6, 2023, and October 13, 2023. (Exhibit B). According to the paystubs, Petitioner had gross weekly earnings of about [REDACTED] from her employment as a waitress. However, Petitioner testified that the paystubs do not accurately reflect her earnings, as she receives cash tips that are not included on the paystubs. Petitioner testified that at the time of her application, she was working 20-25 hours weekly and when factoring in her cash tips, she earned about [REDACTED] per hour, as reported on her application. There was no evidence that the Department considered Petitioner's cash tips when calculating her income. Upon review, the Department failed to establish that Petitioner's shelter was unaffordable. Therefore, the Department failed to establish that the October 20, 2023, State Emergency Relief Decision Notice was issued in error. Thus, because Petitioner timely made her \$790 copayment, the Department is to make its approved \$410 payment towards Petitioner's [REDACTED] 2023, request for SER assistance with relocation.

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 [REDACTED] 2023, SER application.


**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. Authorize and issue the approved \$410 payment to Petitioner's landlord in accordance with the October 20, 2023, State Emergency Relief Decision Notice, and
2. Notify Petitioner in writing of the SER authorization.

ZB/ml

  
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**Zainab A. Baydoun**  
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**  
Yvonne Hill  
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30755 Montpelier Drive  
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**MDHHS-Oakland-DistrictII-Hearings@michigan.gov**

**Interested Parties**  
BSC4  
E Holzhausen  
J McLaughlin  
MOAHR

**Via First Class Mail:**

**Petitioner**  
[REDACTED]  
MI [REDACTED]