



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
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: August 27, 2024
MOAHR Docket No.: 24-006562
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 July 17, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Avery Smith, Eligibility Specialist.

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 [REDACTED] 2024, Petitioner applied for SER benefits for homeowners' insurance, heat, and non-heat electricity benefits.
2. Petitioner is [REDACTED] years old and receives unearned income from the Social Security Administration (SSA) from Retirement, Survivor's, and Disability Insurance (RSDI) in the amount of [REDACTED] monthly. (Exhibit A, p. 8). Petitioner also had earned income at the time of her SER application with [REDACTED] (Employer) as a substitute teacher.
3. On [REDACTED] 2024, the Department sent a State Emergency Relief Decision Notice to Petitioner informing her that her SER application was denied based on her countable income. (Exhibit A, pp. 10-12). The Notice concluded that Petitioner's countable income was higher than the maximum amount allowed for the SER energy services and the SER assistance homeowner's insurance program.

4. On May 28, 2024, the Department received a request for hearing from Petitioner disputing the Department's denial of her SER application. (Exhibit A, pp. 3-5).

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.

Petitioner requested a hearing to dispute a denial of an SER application. (Exhibit A, pp. 3-5.) The Department testified that Petitioner was denied on May 20, 2024, due to excess income. The Department's denial also indicated that Petitioner was denied for SER assistance for homeowner's insurance due to her not meeting program requirements. At the hearing, Petitioner testified that she did not have any issues regarding the Department's denial of her SER assistance request for the homeowner's insurance and as a result she did not dispute this denial in her request for hearing. Therefore, since Petitioner did not request review of the SER assistance request for homeowner's insurance, it will not be discussed in this decision.

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (October 2023), 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. A single SER group consists of persons who occupy the same home. ERM 201 (October 2023) p. 1. It was not disputed that Petitioner resided alone, and thus the Department properly determined Petitioner's SER group size as one. The SER income need standard for energy/LIHEAP services for a group size of one is \$1,823. ERM 208, p. 6.

The Department is to verify and budget all non-excluded gross income the SER group expects to receive during the countable income period. ERM 206 (April 2024) p. 1. The countable income period consists of 30 days beginning with the SER application date. ERM 206, p. 1. In the present case, the countable income period begins with Petitioner's application date of [REDACTED] 2024; therefore, the 30-day countable income period for the Department to consider Petitioner's expected income is May 20, 2024 through June 19, 2024.

The Department presented a SER Copayment Details calculation budget that was discussed on the record. (Exhibit A, pp. 8-9). During the SER 30-day countable income period, Petitioner received [REDACTED] in gross income from Employer and [REDACTED] in unearned income from RSDI.

To determine net income from employment or self-employment for SER purposes, the Department must deduct certain expenses of employment from the gross amount received, which can include but are not limited to, mandatory withholding taxes (25% of the gross), deductions required by the employer as a condition of employment, and deductions for health insurance. ERM 206, pp. 1-7.

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; (iii) payments for health insurance; and (iv) Medicare premiums that will not be reimbursed. ERM 206, p. 5.

Based on the Department's SER Copayment Details calculation budget, Petitioner's [REDACTED] gross income was reduced by mandatory taxes deduction in the amount of \$450 (or 25% of [REDACTED] resulting in a net unearned income of [REDACTED] (Exhibit A, pp. 8-9). Since no paystubs were provided, it is unclear whether additional deductions were allowable such as deductions required by the employer as a condition of employment, or deductions for health insurance; however, based on the other evidence presented, Petitioner's unearned income would be in excess of the income limit even if the employment earnings were excluded.

Regarding Petitioner's unearned income, there was no evidence presented which indicated Petitioner had mandatory tax withholding, court-ordered child support, or payments for health insurance. However, at the hearing, Petitioner testified that she pays Medicare Part B premiums from her monthly unearned income in the amount of [REDACTED]. The Department did not include the Medicare B premium payment as a deduction in its calculation. If the Department had included the deduction, the net countable unearned income for Petitioner would be [REDACTED]. While the Department did not act in accordance with policy when it did not include the Medicare Part B deduction in its calculation, Petitioner's unearned income alone would still exceed the SER income limit.

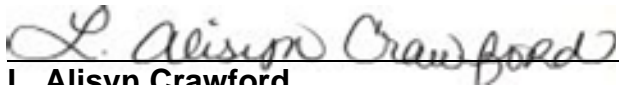
At the hearing, Petitioner testified that she was no longer working and in the process of searching for full-time employment. Petitioner was encouraged to reapply for SER assistance if her circumstances have changed. Here, because Petitioner's countable income exceeds the income limit for the SER program, the Department properly denied Petitioner's SER application due to excess income.

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**.

LC/ml


L. Alisyn Crawford
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

25620 W. 8 Mile Rd

Southfield, MI 48033

MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Parties

BSC4

E Holzhausen

J McLaughlin

MOAHR

Via First Class Mail:

Petitioner

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