



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



Date Mailed: August 27, 2024
MOAHR Docket No.: 24-006937
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 August 5, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. A representative from the Department of Health and Human Services (Department) did not appear for the hearing and it was properly held in the absence of the Department.

ISSUE

Did the Department properly process Petitioner's application 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 or around [REDACTED] 2023, Petitioner submitted an application requesting SER assistance with heat and electric energy services.
2. On or around January 4, 2024, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that the Department approved \$850 towards her request for assistance with heat and \$850 with her request for assistance with electric services. Petitioner was informed that she was required to make a \$1,371.10 copayment towards heat and \$918.33 towards electric and provide proof that this payment has been made or the Department would not make its approved payment.
3. Petitioner timely submitted verification to the Department that the Salvation Army committed to making the copayments towards her request for SER assistance. The

Department did not enter verification of the commitment and subsequently denied Petitioner's SER application after the 30-day period ended.

4. Petitioner contacted the Department regarding its failure to make its approved payments towards her heat and electric services.
5. On or around June 10, 2024, Petitioner requested a hearing disputing the Department's actions regarding the denial of her SER application.
6. A policy exception was requested in order to make the payments towards Petitioner's approved SER request. On or around June 14, 2024, the policy department denied the exception asserting that Petitioner did not accurately report her circumstances on the application, as she had unreported income that would result in excess income for SER eligibility.

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, the Department was not present for the hearing and thus did not present any documentary or testimonial evidence in support of the processing and/or denial of Petitioner's [REDACTED] 2023, application for SER assistance with heat and electric services. At the hearing, the undersigned read the Hearing Summary prepared by the Department in response to Petitioner's request for hearing into the hearing record. According to the Hearing Summary, Petitioner's SER application was initially approved and she submitted verification that she had a commitment from the Salvation Army to make the required copayments on her behalf. The Department subsequently denied the application and requested assistance from the policy department to request an exception in order to reprocess the application and make the payment to Petitioner's energy provider. The exception request was denied, as the Department asserted that Petitioner had unreported income that was in excess of the income limit to receive SER assistance with heat and electric costs.

Eligible households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. Funding for energy services assistance is provided through the Low-Income Home Energy Assistance Program (LIHEAP). ERM 301 (October 2023), p. 1. When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be

restored, payment may be authorized to the enrolled provider. ERM 301, pp. 3-4. 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.

Additionally, income eligibility is required for assistance with SER energy services, including heat and electric. All household members are included in the SER group and income of all household members is budgeted. Income verification used for current eligibility for any other Department administered program may be used, if available. ERM 301, pp. 3-8; ERM 206 (October 2023), pp. 1-7. The first day of the 30-day countable income period is the date the local office receives a signed application. There is no income copayment for energy related services and the group is either eligible or not. 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 LIHEAP income limit based on group size. If the income exceeds the limit, the request must be denied. ERM 301, pp. 6-8; ERM 208, pp. 1-6.

Because the Department was not present for the hearing, the Department presented no evidence in support of its determination that Petitioner's household had income in excess of the LIHEAP income limit. There was no evidence presented regarding Petitioner's household size, or the income limit. Because the Department did not establish that Petitioner had unreported earnings that were greater than the income limit, it follows that the Department did not properly deny her request for SER assistance with heat and electric services. The Department acknowledged through the Hearing Summary that the Department approved \$850 towards Petitioner's request for assistance with heat and \$850 with her request for assistance with electric services. It was also established that Petitioner timely submitted verification that the Salvation Army would be making the \$1,371.10 copayment towards heat and \$918.33 copayment towards electric. Thus, the Department shall make payment to Petitioner's energy service provider in the approved amount.

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 \$850 towards Petitioner's request for heat and \$850 towards Petitioner's request for electric in accordance with the January 4, 2024, State Emergency Relief Decision Notice that approved Petitioner's [REDACTED] 2023, SER application; and
2. Notify Petitioner in writing of the SER authorization.

ZB/ml


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

Dora Allen

Wayne-Gratiot/Seven-DHHS

4733 Conner Suite G 7 Lappin

Detroit, MI 48215

MDHHS-Wayne-76-Hearings@michigan.gov

Interested Parties

BSC4

J McLaughlin

E Holzhausen

MOAHR

Via First Class Mail:

Petitioner

[REDACTED]
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[REDACTED] MI [REDACTED]