



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 2, 2016
MAHS Docket No.: 15-023640
Agency No.: [REDACTED]
Petitioner: [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; 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 February 24, 2016, from Lansing, Michigan. [REDACTED], the Petitioner, appeared on his own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist and Hearing Facilitator.

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 October 30, 2015, Petitioner submitted a Change Report to the Department for a September 23, 2015, address change. (Department Exhibit A, p. 13; Petitioner Exhibit 1, pp. 21-23)
2. On October 30, 2015, Petitioner submitted a copy of his Lease with Purchase Option to the Department. (Department Exhibit A, pp. 9-12)
3. On November 17, 2015, Petitioner applied for SER for relocation expenses, heat, and non-heat electricity. (Department Exhibit A, pp. 1-4)

4. On November 20, 2015, the Department issued a SER Decision Notice to Petitioner, in part, stating he was approved for non-heat electricity with a copayment of [REDACTED], and heat with a copayment of [REDACTED], therefore, a total copayment of [REDACTED]; but was denied relocation expenses because that emergency had already been resolved. (Department Exhibit A, pp. 15-17)
5. On November 25, 2015, Petitioner applied for SER for relocation expenses, heat, and non-heat electricity. (Department Exhibit A, pp. 5-8)
6. On November 25, 2015¹, Petitioner submitted correspondence to the Department from himself and the landlord, which was interpreted as a hearing request. (Department Exhibit A, p. 14; Petitioner Exhibit 1, p. 17-20)

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.

Application Date

The application for SER is the DHS-1514, Application for State Emergency Relief. All SER applicants must complete this form unless they apply online through MIBridges for an SER covered service. Incomplete applications may be filed, but must be completed before authorizing SER. Active clients may submit this form at a local DHS office, or by mail

¹ It appears that on their Hearing Summary, the Department incorrectly stated the hearing request was received December 3, 2015. (Department Hearing Summary) It also appears the Department only received the first page of this four page document on November 25, 2015. (Department Exhibit A, p. 14; Petitioner Exhibit 1, pp. 17-20) Petitioner's signature was on the fourth page. (Petitioner Exhibit 1, p. 20) Therefore, on January 11, 2016, the Michigan Administrative Hearing System (MAHS), having only received the first page from the Department, sent Petitioner a letter letting him know that a hearing could not be scheduled until a document bearing his signature was received by MAHS. (MAHS letter to Petitioner dated January 11, 2016) The documents Petitioner faxed to MAHS on January 28, 2016, contained all four pages of the November 25, 2015, correspondence, which included his signature. (Petitioner Exhibit 1, pp. 17-20) Accordingly, Petitioner's case was re-opened and a hearing was scheduled.

or fax. Emailed and scanned applications are not acceptable.

Requests for SER become an application on the day the signed DHS-1514 is received in a local office. For electronic applications submitted through MIBridges, the application date is determined based on the time and date of submission. Any application submitted after 5:00 pm or on a non-business day will have an application date of the next business day.

The application date is the first day of the 30-day SER eligibility period. If the application is approved, the 30-day eligibility period does not change regardless of how many service requests the client may make during that period. If the application is denied and the client reapplies, a new 30-day period will start with that new application date.

If additional SER services are requested during the approved 30-day eligibility period, a new application is not needed and the application date cannot be changed. Every additional request made during the approved 30-day eligibility period is entered into Bridges as an additional SER service request and is subject to the original 30-day eligibility period.

ERM 103, October 1, 2013, pp. 1-2
(Underline added by ALJ)

The ERM 103 policy was updated effective October 1, 2015. However, the only change to the above cited portions was regarding the change in the Department name, from Department of Human Services (DHS) to the Department of Health and Human Services (DHHS). ERM 103, October 1, 2015, pp. 1-2.

In his testimony, Petitioner alleged that he had applied for SER for relocation expenses prior to November 2015. However, Petitioner did not provide sufficient evidence to establish an earlier application date regarding the relocation, heat, and utility expenses at issue.

Petitioner stated that since 2014 he has kept the Department aware that he was trying to relocate medically to establish a hospice, which his old address could not accommodate. Making the Department aware of this since 2014 is not the same as actually applying for SER and is not sufficient to establish an earlier application date.

Further, the ERM 103 policy only allows for a 30 day eligibility period from the application date. The policy does not allow for any type of a rolling or ongoing request for SER from 2014 through the start of Petitioner's lease on [REDACTED]. (See Department Exhibit A, p. 9) Similarly, telephone calls from Petitioner or his landlord to the Department about SER do not constitute submitting a signed DHS-1514 SER application form or an electronic application for SER through MIBridges.

Petitioner asserted that he submitted an application for SER and/or documentation for SER on September 23, 2015. However, there is no documentary evidence that Petitioner applied for SER or submitted documentation on September 23, 2015, such as: a printed confirmation of a successful fax transmission on that date; a copy of an SER application or documentation with a date stamp from the Department showing that it was received on that date; or a copy of an SER application signed by Petitioner around that date.

Petitioner's testimony also indicated he may have given the Department documentation relating to his housing expenses and/or the move at the time of a Food Assistance Program (FAP) redetermination around September 2015. Even if there was documentary evidence of the submission of such documentation around September 2015, this cannot be considered an SER application unless Petitioner filed a signed DHS-1514 SER application form with the Department or submitted an electronic application for SER through MIBridges. Further, the date stamps on the copy of Petitioner's lease in this hearing record and the Change Report shows that they were not received by the Department until October 20, 2015. (Department Exhibit A, p. 9-13; Petitioner Exhibit 1, pp. 21-23) Again, the submission of these documents to the Department was not sufficient to constitute an application for SER.

There was testimony from both parties that a copy of a document not included in the hearing record had a handwritten date across the top of September 23, 2015. However, neither party knew who added that handwritten date. Further, there was no evidence to support that the Department would use a handwritten date at the top of a document to identify when it was received. For example other documents received by mail show each page was marked with a date stamp from the local office mailroom or a typed dated added to the bottom the image of a scanned document. (Department Exhibit A, pp. 1-14)

Overall, Petitioner did not provide sufficient evidence of an actual SER application, specifically submitting a signed DHS-1514 SER application form or an electronic application for SER through MIBridges, prior to November 17, 2015, regarding the relocation, heat, and utility expenses at issue.

Relocation Expenses

Requirements

Residence in the state of Michigan is not required. SER serves all persons physically present in Michigan. In addition SER applicants must:

- Complete the application process.
- Meet financial and non-financial requirements.
- Have an emergency which threatens health or safety and can be resolved through issuance of SER.
- Take action within their ability to help themselves. For example, obtain potential resources and/or apply for assistance.
- Not have caused the emergency; see ERM 204, Client-Caused Emergencies.
- Cooperate in providing information about income, assets, living arrangements, and other persons living in the home.

Deny SER services for applicants who fail to meet any of the above requirements.

ERM 101, March 1, 2013, p. 1
(Underline added by ALJ)

Certain conditions must be met before SER can be issued to help individuals and families whose health and safety are threatened:

- Prior written or oral approval must be given by an authorized department staff person before SER issuance.
- **Do not issue SER to reimburse expenses incurred or paid without prior department approval.**

- The SER payment must resolve the emergency.
- The group must meet all applicable policy requirements for the SER service.

Prior Approval

After-Hours Emergency

Immediate action may be necessary to prevent harm to SER group members when an emergency arises after hours or on weekends. The prior approval requirement may be waived in any case when the emergency occurred while department offices were closed.

The first-line manager may approve a waiver of the prior approval requirement in non-burial cases, provided an SER application is filed within five business days from the date the emergency began.

ERM 103, October 1, 2015, p. 3.
(bolding in original)

In this case, the Department denied Petitioner's November 17, 2015, SER application for relocation expenses because the emergency had already been resolved. (Department Exhibit A, pp. 15-17) The copy of the Lease with Purchase Option submitted on October 30, 2015, stated the lease began [REDACTED]. (Department Exhibit A, pp. 9-12) A Change Report received October 30, 2015, indicated an even earlier date for Petitioner's change of address, September 23, 2015. (Department Exhibit A, p, 13) There is no evidence to establish that any other information was provided to the Department during the time the November 17, 2015, SER application was being processed and before the SER Decision notice was issued on November 20, 2015. (Department Exhibit A, pp. 15-17) Rather, the information available to the Department at that time indicated Petitioner moved in late September 2015. The available information also did not indicate this was an after-hours emergency, nor was the SER application filed within five business days from the date the emergency began. The Department's determination to deny Petitioner's November 17, 2015, SER application for SER relocation expenses because the emergency had already been resolved was appropriate based on the information available to the Department at that time.

The correspondence that Petitioner and the landlord submitted to the Department on November 25, 2015, was not received until after the November 20, 2015, SER Decision

notice was issued and the evidence indicates the Department only received the first page of that four page letter. (Department Exhibit A, p. 14; See also Petitioner Exhibit 1, p. 17-20) Accordingly, even if the full four pages had been received on November 25, 2015, the information in this letter (such as Petitioner having only moved some items into the barn/garage; that Petitioner was doing repairs to the home; and that prior contracts were considered void until contact with the Eligibility Specialist) was not available to the Department when the relocation expense determination at issue for this hearing was made on November 20, 2015.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 792.10101 to R 792.10137 and R 792.11001 to R 792.11020. Rule 792.11002(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.

Accordingly, there is no jurisdiction for this ALJ to review Petitioner's subsequent SER applications, such as the application filed November 25, 2015, or the application signed by Petitioner on January 14, 2016. (Department Exhibit A, pp. 5-8; Petitioner Exhibit 1, pp. 26-31) The correspondence from Petitioner and the landlord that was interpreted as a hearing request was originally submitted on November 25, 2015. (Department Exhibit A, p. 14) At that time, there had been no negative actions, such as a denial, taken regarding these more recent applications. Further, on November 25, 2015, the Department cannot be said to have failed to act with reasonable promptness on the SER application filed that same date. Similarly, the Department had not even received the SER application signed by Petitioner on January 14, 2016, when the November 25, 2015, correspondence was filed.

Overall, the evidence supports the Department's determination to deny Petitioner's November 17, 2015, SER application for SER relocation expenses because the emergency had already been resolved based on the information available to the Department at that time and there is no jurisdiction to address Petitioner's more recent SER applications as part of this appeal.

Heat and Non-Heat Electricity Approval

Proof of Payment

If the SER group meets all eligibility criteria but has an income or asset copayment, shortfall, and/or contribution, do

not issue payment until the client provides proof that their payment has been made. If another agency is making the payment, proof that payment will be made is required. 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. Use the DHS-1419, Decision Notice, to inform the SER group of the amount they must pay and the due date for returning proof of their payment.

Energy Services

Example: For energy services, the MDHHS payment is not reduced when another agency is paying the client's current balance or arrearages, in addition to the copay, as long as the additional payment results in a zero account balance. Verify the payments and account balance with the energy provider. A client as an account balance of \$750 and a shut off notice for \$500. MDHHS energy cap is \$450 therefore the client copay is the \$50 overcap amount. A community agency is willing to pay the client copay amount and \$250 to get the bill current for a total payment of \$300. The MDHHS payment of \$450 would not be reduced.

If the agency had paid \$100 toward the need, the MDHHS would be reduced since the extra contribution was not enough to bring the total account balance to zero.

Anytime the copay is not made by another agency, the MDHHS payment is reduced.

ERM 103, October 1, 2015, p. 4.
(underline added by ALJ)

On November 20, 2015, the Department issued a SER Decision Notice to Petitioner, in part, stating he was approved for non-heat electricity and heat-natural gas/wood/other. For the non-heat electricity, the Department would potentially pay [REDACTED] and Petitioner's payment was [REDACTED]. For the heat-natural gas/wood/other the Department would potentially pay [REDACTED] and Petitioner's payment was [REDACTED]. The notice stated that Petitioner had a total copayment of [REDACTED], from [REDACTED] unmet required payments (shortfall) and [REDACTED] contributions from Petitioner and/or other sources. (Department Exhibit A, pp. 15-17)

Petitioner testified that he only paid the copayment of [REDACTED]. Petitioner asserted the Department should treat each of the approved expenses separately. Petitioner believes

the Department should therefore pay the amount approved for non-heat electricity, because he paid that co-payment.

The Eligibility Specialist explained that the Department could not pay any of the approved amounts unless they had documentation that Petitioner paid both of his co-payment amounts. This is consistent with the above cited ERM 103 policy. The SER decision notice stated that Petitioner's total copayment would be [REDACTED] and indicated it was based in part on a shortfall and on contributions from Petitioner and/or other sources. The Department policy states the Department is not to issue SER payment until proof that the client's payment, and/or verification that another agency is making the payment, is received. Further, under this policy if other source(s) were included in the calculation of the SER approvals and copayment amounts, and the other source(s) did not make that payment, this would reduce the Department payment.

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/mc



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

Petitioner

[REDACTED]