



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 24, 2017
MAHS Docket No.: 17-004731
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 [REDACTED] [REDACTED] from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Assistant Payment Supervisor; and [REDACTED] [REDACTED], Eligibility Specialist/Assistance Payments Worker.

ISSUE

Did the Department properly not issue payments towards Petitioner’s heat and electric services because Petitioner failed to provide proof that her payment obligation had been made by [REDACTED]?

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 about [REDACTED], Petitioner applied for State Emergency Relief (SER) energy services with heat and electric. [Exhibit A, p. 1.]
2. As a result of the application, Petitioner’s 30-day eligibility period was [REDACTED] [REDACTED]. [Exhibit A, p. 2.]
3. On [REDACTED] the Department sent Petitioner an SER Decision Notice, which required her to pay \$ [REDACTED] for the electric service; and then once she pays

her total payment, the Department would pay \$ [REDACTED] towards the heat service and \$ [REDACTED] towards the electric service. [Exhibit A, p. 2.]

4. The SER Decision Notice informed Petitioner that the Department would not make a payment for any service(s) until she provides proof that she made her payment of \$ [REDACTED]. If verification of her payment is not returned by [REDACTED], the Department will not make its payment; and she will need to reapply. [Exhibit A, p. 2.]
5. The Department did not issue its payment obligation towards Petitioner's heat and electric services because it did not receive proof from Petitioner that she made her payment obligation of \$ [REDACTED] by [REDACTED].
6. Petitioner alleged that she did contact the Department by the due date of [REDACTED].
7. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 5-8.]

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 the present case, Petitioner applied for SER energy services with heat and electric on or about January of 2017. [Exhibit A, p. 1.] As a result of the application, Petitioner's 30-day eligibility period was [REDACTED]. [Exhibit A, p. 2, and see ERM 103 (October 2015), p. 2, (the application date is the first day of the 30-day SER eligibility period).]

On [REDACTED], the Department sent Petitioner an SER Decision Notice, which required her to pay \$ [REDACTED] for the electric service; and then once she pays her total payment, the Department would pay \$ [REDACTED] towards the heat service and \$ [REDACTED] towards the electric service. [Exhibit A, p. 2.] The SER Decision Notice informed Petitioner that the Department would not make a payment for any service(s) until she provides proof that she made her payment of \$ [REDACTED]. [Exhibit A, p. 2.] The SER Decision Notice further states that if verification of her payment is not returned by [REDACTED], the Department will not make its payment; and she will need to reapply. [Exhibit A, p. 2.]

At the hearing, the Department argued that it did not receive contact from Petitioner that she had made her payment obligation by [REDACTED]. As part of the evidence record, the Department included a "NET-Phacs Call Detail Inquiry" document (hereinafter referred to as "phone records"), which showed a history of phone contacts Petitioner made from her cell phone ending in [REDACTED] for the period of [REDACTED], [REDACTED]. [Exhibit A, p. 3.] The phone records reveal that Petitioner contacted the Department from her cell phone on [REDACTED], and [REDACTED] [Exhibit A, p. 3.] However, both contacts from Petitioner were made before the issuance of the SER Decision Notice dated [REDACTED]. Thus, the Department argues that Petitioner would not have known her payment obligation until the issuance of the SER Decision Notice on [REDACTED], and the phone records reveal that no cell phone contact was received from Petitioner from [REDACTED], to the due date of [REDACTED]. [Exhibit A, p. 3.]

In response, Petitioner testified that she did attempt to contact her caseworker informing him that she made her payment obligation by [REDACTED]. Petitioner testified that she attempted to contact her caseworker and/or leave voicemails on three different occasions from [REDACTED], (the date she made her payment obligation) to the due date of [REDACTED]. As to the phone records presented by the Department, Petitioner acknowledged that was her cell phone at the time, but stated, she also had a home phone ending in [REDACTED] and that she believed she called the Department from her home phone as well. The phone records presented by the Department failed to indicate if a phone call was received from Petitioner's home phone. Petitioner, though, acknowledged that the three phone calls she attempted to make to the Department before the due date could have come from her cell phone.

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. ERM 103, p. 4. If another agency is making the payment, proof that payment will be made is required. ERM 103, p. 4. 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 103, p. 4. 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. ERM 103, p. 4 and see ERM 301 (October 2015), pp. 11-12.

Based on the foregoing information and evidence, the Department acted in accordance with Department policy when it properly did not issue its payment towards Petitioner's SER energy services of heat (\$ [REDACTED] and electric (\$ [REDACTED] for the SER Decision Notice dated [REDACTED]. The Department presented credible testimony and evidence showing that Petitioner failed to provide proof that she made her payment obligation of \$ [REDACTED] by the due date of [REDACTED]. [Exhibit A, p. 3.] Petitioner claimed that she contacted the Department on three separate occasions before the due date, but she failed to provide any evidence showing such contact to the Department (i.e., phone log/bill). Instead, the Department presented persuasive evidence, her

phone records for her cell phone number, showing that she did not contact the Department by the due date of [REDACTED]. [Exhibit A, p. 3.]


Accordingly, the Department established by a preponderance of evidence that Petitioner failed to provide proof that she made her payment obligation of \$ [REDACTED] by [REDACTED] and therefore, the Department properly did not make its payment obligation towards Petitioner's SER energy services in accordance with Department policy. ERM 103, p. 4; ERM 301, pp. 11-12; and ERM 401 (October 2013), pp. 1-7.

DECISION AND ORDER

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 properly did not issue its payment towards Petitioner's SER energy services of heat (\$ [REDACTED] and electric (\$ [REDACTED] for the SER Decision Notice dated [REDACTED].

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

EJF/jaf



Eric J. Feldman
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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]