



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 6, 2018
MAHS Docket No.: 17-016166
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 February 5, 2018 from Detroit, Michigan. The Petitioner was self-represented and appeared with her witness, Alfonso Hill. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator, and appeared with Department witness [REDACTED] Assistance Payments Worker.

ISSUE

1. Did the Department properly determine Petitioner to be in noncompliance with the Office of Child Support (OCS) resulting in a denial of her State Emergency Relief (SER) application dated October 2, 2017?
2. Did the Department properly determine Petitioner's co-payment based upon her November 1, 2017 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 October 2, 2017, Petitioner submitted an Application for SER seeking assistance for her electrical, water, and sewer bills.
2. On the October 4, 2017, the OCS removed the non-cooperation status from Petitioner's cases because OCS had listed Petitioner's address incorrectly; OCS sent an email to Petitioner's caseworker regarding the change in status.

3. On the same day, the Department denied Petitioner's October SER application because of non-cooperation with the OCS.
4. On October 9, 2017, as a result of the email from OCS, the sanction was lifted from Petitioner's FAP case; a FAP supplement was issued but no changes were made to the Petitioner's SER case status.
5. On October 16, 2017, Petitioner made a \$ [REDACTED] payment to the Board of Water and Light (BWL) toward her overall balance.
6. On November 1, 2017, Petitioner submitted a new SER assistance application for electricity, water, and sewer.
7. On November 2, 2017, Petitioner's caseworker reached out to BWL to determine Petitioner's past due balance of \$ [REDACTED]
8. On November 3, 2017, [REDACTED] made an \$ [REDACTED] payment to BWL on Petitioner's behalf.
9. On November 8, 2017, the Department mailed Petitioner a State Emergency Relief Decision Notice indicating that Petitioner must pay \$ [REDACTED] to BWL by November 30, 2017 before the Department would release payment of \$ [REDACTED] toward the water and sewerage bill but denied Petitioner's request for non-heat electricity assistance because she was not experiencing an emergency.
10. On November 28, 2017, Petitioner paid \$ [REDACTED] to BWL towards her outstanding balance.
11. On December 1, 2017, Petitioner paid \$ [REDACTED] to BWL towards her outstanding balance in anticipation of additional help with her utility bills from [REDACTED]
12. On December 4, 2017, Petitioner submitted to the Department copies of her receipts for the payments made on November 28th and December 1st.
13. On December 8, 2017, Petitioner submitted her hearing request disputing the denial of SER benefits from the October application and calculation of her co-payment from the November application.

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 Petitioner submitted two separate requests for SER assistance with her water, sewer, and electric bills. The Department denied Petitioner's first request for SER assistance in October 2017 on the same day that the non-cooperation status with OCS was removed. Groups that are non-cooperative with the OCS are ineligible for SER. ERM 203 (June 2013), p. 2. SER ineligibility continues as long as the group member fails or refuses to pursue potential resources. ERM 203, p. 2.

On October 4, 2017, the OCS effectively removed the reasoning for a negative action against Petitioner on the same day that the Department attempted to take the negative action. The OCS removed the non-cooperation status because after talking with Petitioner, it was discovered that the OCS had Petitioner's address listed incorrectly. Without the non-cooperation finding by OCS, the Department had no reason to apply a sanction and deny Petitioner's SER application. It should also be noted that the Department showed agreement with the removal of non-cooperation sanctions by issuing Food Assistance Program (FAP) supplements for months when the non-cooperation status was applied in error. The Department should have reconsidered the SER application just as it did with Petitioner's FAP benefits. Therefore, the Department did not act in accordance with policy when it denied Petitioner's October 2, 2017 SER application or failed to reconsider the application after discovery of the error and removal of the non-cooperation status.

Turning to Petitioner's second SER application submitted on November 1, 2017, the Department assessed a \$ [REDACTED] co-pay in order for the Department to issue \$ [REDACTED] in SER assistance toward Petitioner's water and sewage bills. The \$ [REDACTED] co-payment included \$ [REDACTED] for water and sewage as well as the remaining past due balance for Petitioner's electricity totaling \$ [REDACTED]. Petitioner's water, sewer, and electric bills are assessed through the Board of Water and Light (BWL) and appear on one bill. The Department asserts that there is only one account for Petitioner which includes each of these items; therefore, failure to pay the whole bill would result in shut off. The Department further asserted that Petitioner was not in an emergency status for her electricity and denied assistance for the portion of the bill attributable to electricity because there was no danger of shut off.

The SER group or other organizations on behalf of the group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. ERM 208 (October 2017), p. 3. If an application is made for shelter, heat, electricity, or utilities, a determination of required payments must be made. Required payments are determined based on the group size, the group's income, and the obligation to pay for the service that existed during each month of the six months prior to application. ERM 208, p. 4; ERM 302 (October 2013), p. 2. If the client failed without good cause to make

required payments, a short fall amount is determined; a client must pay the shortfall toward the cost of resolving the emergency. ERM 208, p. 4. In this case, the Department did not present any evidence of a shortfall by Petitioner in the six months prior to application.

The Department may pay up to \$ [REDACTED] per fiscal year for water, sewer, and cooking gas. ERM 302, p. 2. In this case, the SER Decision Notice indicates that the Department would pay the annual cap amount of \$ [REDACTED] toward Petitioner's water and sewer bill if Petitioner paid \$ [REDACTED] or the remainder of her past due balance.

This case presents a unique circumstance where the Petitioner's water, sewer, and electric bills all appear on the same statement and are provided by the same company. The Department has clearly stated that it cannot provide assistance with the electricity because Petitioner is not in a state of emergency, electricity cannot be shut off during the winter months. Yet, the Department attributed the arrears for the electricity portion of the bill toward the total co-payment by Petitioner. If the Department is unable to assist with the electricity, it cannot simultaneously say that she must pay for the electricity to keep her water and sewer services active. The bill as provided by the Department and as provided by the Petitioner clearly delineates the cost attributable to each service. Therefore, each service need should be evaluated separately through the entire process and not in select portions. Water and sewer decisions are made in accordance with water and sewer policies. Non-heat electricity decisions are made in accordance with non-heat electricity policies.

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 October 2017 SER application and failed to satisfy its burden of showing that it acted in accordance with Department policy when it assessed a co-payment of \$ [REDACTED] from the November 2017 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. Reprocess Petitioner's October 1, 2017 SER application;
2. If Petitioner is eligible for SER assistance based upon the October 2, 2017 application, issue payments on Petitioner's behalf in accordance with policy;

3. If Petitioner is not eligible for SER assistance based upon the October 1, 2017 application, reprocess Petitioner's November 1, 2017 SER application;
4. If Petitioner is eligible for SER assistance based upon the November 1, 2017 application, issue payments on Petitioner's behalf in accordance with policy; and
5. Notify the Petitioner in writing of its decision.



AM/

Amanda M. T. Marler
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]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
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