



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 15, 2018
MAHS Docket No.: 17-016476
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 7, 2018, from Detroit, Michigan. The Petitioner appeared and was represented by [REDACTED], his Authorized Representative and Case Manager from outside of the Department. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's December 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 December 4, 2017, Petitioner submitted an application for State Emergency Relief to the Department for replacement of his hot water heater.
2. On December 6, 2017, Petitioner provided the Department with three separate estimates in order to replace the hot water heater.
3. The Department selected [REDACTED] as the provider as it was the lowest estimate for the repair.

4. On December 13, 2017, the Department issued an SER Decision Notice indicating that Varton did not have a current provider ID in order to receive payment from the State of Michigan.

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's application for SER assistance was denied because the lowest estimate provider did not have a valid provider ID on file with the Department at the time of Petitioner's application processing.

Clients of the Department can apply for SER assistance for non-energy-related home repairs such as repair or replacement of hot water heaters. ERM 304 (October 2017), p. 3. Authorization of payment is only made if the repair is essential to remove a direct threat to health or safety or is required by law. *Id.* The repair must restore the home to a safe, livable condition. *Id.* The lifetime maximum for non-energy-related home repairs is \$1,500 per SER group. *Id.* Only one estimate is required for the cost of the repair, but more may be requested depending on the case circumstances in which case the most cost-effective repair should be approved. ERM 304, p. 5. Payment for electrical, plumbing, furnace repair or replacement, and repairs costing over \$600 require a licensed contractor by the Bureau of Construction Codes through the Department of Licensing and Regulatory Affairs. *Id.* All SER service providers must be enrolled in Bridges before payment can be issued. ERM 401 (February 2017), p. 2.

Department policy does not specifically outline how to proceed in this case. The Department effectively penalized the Petitioner for something he had no way of knowing or controlling despite having followed all necessary procedures. The Petitioner provided three estimates for the repair of his hot water heater despite only being required to provide one. The Department then chose the lowest estimate as the provider; the Petitioner had no choice in the matter. From there, the Department then denied Petitioner's application because the lowest estimate provider did not have a valid provider identification with the Department which would enable the Department to pay the provider. Five days after the SER Decision Notice was issued, the Department's records were updated with a valid provider ID for Varton. Again, the Petitioner had no control over whether or not the provider updated its records with the Department. Rather than allowing time for the provider to update its information or selecting the next

lowest estimate provider, the Department denied the Petitioner's application outright. It would seem that the first step should be determining which providers are eligible providers, and then determining which of the eligible providers has the lowest estimate rather than determining which provider has the lowest estimate and then checking to see if the provider is eligible. Nothing in policy suggests that this is inappropriate step nor does it suggest that every estimate (including those which are ineligible) must be considered in determining the lowest cost estimate. If in this first step, the Department determines that only two of the estimates are from eligible companies, the Department can select the lowest of the eligible providers, notify the provider that their identification number is not valid and needs to be updated, or request additional estimates from the client. In any case, the Department is required to verify the eligibility of the provider. Making a determination of provider eligibility eliminates an unnecessary hardship on the client when the SER application would be denied for something the client had no control over.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SER application for assistance with the replacement of his hot water heater.

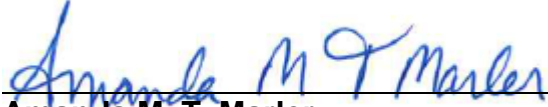
DECISION AND ORDER

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 SER application and estimates from December 2017;
2. If Petitioner is eligible for SER assistance, issue payments on behalf of Petitioner for the requested services; and
3. Notify Petitioner in writing of its decision.

AM/cg



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]

Authorized Hearing Rep.

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
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