



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 1, 2018
MAHS Docket No.: 17-017128
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 April 30, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor.

ISSUE

Did Petitioner submit a proper hearing request to dispute the denial of State Emergency Relief (SER) assistance?

Did the Department properly deny Petitioner's 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 August 21, 2017, Petitioner submitted an Application for SER assistance.
2. In the Application comments section, Petitioner requested a hearing for the "denial of help...", more specifically, the denial of a previous SER application.
3. On August 22, 2017, the Department issued an SER Verification Checklist (VCL) requesting verification of the amount for SER utility services, required payments for shelter, wages for a household member, the need for SER utility services, and required payments for utilities all due by August 29, 2017.

4. On August 30, 2017, the Department issued a SER Decision Notice indicating that Petitioner's application for SER assistance was denied for rent, deposit or reconnection fees, and non-heat electricity because the Department had not received the required proofs and Petitioner did not meet the eligibility requirements as the request was not made during the period from November 1 through May 31.
5. On September 2, 2017, Petitioner sent an email to her case worker's supervisor requesting a hearing; the hearing request was unsigned.
6. On December 18, 2017, Petitioner sent an email to her case worker and his supervisor following up on her September 2, 2017, hearing request.
7. Sometime in February or March 2018, Petitioner forwarded her December 18, 2017, follow-up email to her case worker and his supervisor to her case worker's new supervisor.
8. On March 22, 2018, Petitioner's case worker's new supervisor forwarded the email for scheduling of a hearing and pre-hearing conference.

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, Petitioner has submitted two hearing requests that were reviewed at the hearing. One hearing request appeared within an Application for SER assistance and has a signature. The request references a prior decision of the Department but does not make clear what the denial of assistance was for or when the denial was issued. Petitioner testified during the hearing that she was requesting a hearing regarding the denial of SER assistance. She had submitted the August 21, 2017, application for SER assistance based upon an earlier denial. The second hearing request appears within an email to her case worker's supervisor and is revisited several times in other emails but none of the emails contain a signature from Petitioner.

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600 (April 2017), p. 1. Requests for hearing must be made in writing and signed by an adult member of the group; or the client's authorized hearing representative. Hearing requests must contain

a signature; faxed and photocopied signatures are acceptable. BAM 600, p. 2. In addition, an electronic signature would seem to comply with the signature rule since the Department relies on electronic signatures for other purposes. Clients or authorized hearing representatives have 90 calendar days from the date of the written notice of case action to request a hearing or after the negative action of the Department. BAM 600, p. 6. The computation of time begins on the day after the act, event, or action occurs. *Id.* Hearing requests are denied if the request does not meet these criteria. BAM 600.

In this case, Petitioner's September 2, 2017, hearing request does not contain a signature in its original form or in any of its subsequent forwarded forms. Therefore, policy requires that Petitioner's hearing request from September 2, 2017, be denied.

Petitioner's hearing request from August 21, 2017, is a signed hearing request as it appears within her application and bears an electronic signature. Therefore, the signature requirement has been met. However, the parties did not present any evidence regarding the date or negative action which took place prior to Petitioner's August 21, 2017, hearing request. The only evidence presented was from August 21, 2017, ongoing. Therefore, it cannot be determined whether the hearing request was timely. Since the Department was aware that Petitioner's August 21, 2017, hearing request existed, it should have prepared its evidence to review the relevant decision or negative action.

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 Petitioner's hearing request from September 2, 2017, is dismissed for failure to comply with the signature requirement; in addition, the Department failed to satisfy its burden of proof with regard to any SER actions within 90 days of Petitioner's August 21, 2017, request for hearing.

DECISION AND ORDER

Petitioner's September 2, 2017, hearing request is **DISMISSED** for failure to comply with the hearing request signature requirement.

The Department's decision is **REVERSED** with respect to the August 21, 2017, hearing request.

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 any SER applications received by the Department from Petitioner within 90 days of Petitioner's August 21, 2017, hearing request;

2. If Petitioner is eligible for SER after reprocessing of any of the above-mentioned SER application(s), issue supplements to Petitioner or on her behalf in accordance with Department policy; and
3. Notify Petitioner in writing if no SER applications are found **or** of any decisions made after reprocessing of the above-mentioned SER application(s).



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