



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 10, 2018
MAHS Docket No.: 18-002661
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 May 9, 2018, from Lansing, Michigan. Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by [REDACTED] Assistance Payments Worker and [REDACTED], Family Independence Manager.

Respondent's Exhibit A pages 1-43 were admitted as evidence.

ISSUE

Did the Department properly deny Petitioner's 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 [REDACTED], an application for State Emergency Relief was received by the local Department of Health and Human Services office from Petitioner requesting assistance with lights and gas.
2. On [REDACTED], BRIDGES updated the SER request for amounts, Consumer's Power and DTE, required copayments made by Petitioner, household income and assets.

3. On [REDACTED], Petitioner's request for SER was denied due to shortfall. Petitioner's required monthly utility payments were equal to or greater than the amount needed.
4. On [REDACTED], Respondent sent Petitioner notice of case action via the DHS-1419 local print, indicating that Petitioner's request for SER was denied based upon Petitioner's payment requirement shortfall in the amount of \$ [REDACTED] for heat and \$ [REDACTED] for electricity.
5. The notice indicated that Petitioner has monthly energy payment obligations of \$ [REDACTED] for heating and \$ [REDACTED] for electricity for a total of \$ [REDACTED] per month.
6. The Department determined that Petitioner did not meet the monthly energy payment obligation for the months of September, October, November, December 2017 and January 2018.
7. On [REDACTED] Respondent received a request for hearing from Petitioner.
8. On [REDACTED], Michigan Administrative Hearing System received the hearing summary and attached exhibits for Petitioner's case.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Pertinent Department Policy dictates:

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric

costs. Funding for energy services assistance is provided through the Low-Income Home Energy Assistance Program (LIHEAP). For energy related emergencies, the SER crisis season runs from November 1 through May 31. Requests for those services will be denied June 1 through October 31. Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. Funding for energy services assistance is provided through the Low-Income Home Energy Assistance Program (LIHEAP). For energy related emergencies, the SER crisis season runs from November 1 through May 31. Requests for those services will be denied June 1 through October 31. (State Emergency Relief Manual (ERM) 301, page 1)

In compliance with Section 2604 of the LIHEAP statute, MDHHS must provide some form of assistance within 48 hours of receiving an application for crisis assistance.

Eligibility staff must contact the energy provider to secure a hold on the pending disconnect to resolve the immediate emergency and allow time to determine the household's eligibility for program benefits.

An energy crisis is one of the following:

- An individual or household has a past due account or shut-off notice on an energy bill for his or her household.
- A residential fuel tank is estimated to contain no more than 25 percent of its fuel capacity.
- A stated need for household deliverable fuel or nontraditional fuel source such as wood, corn, cherry pits, etc.
- A notice that the balance of a prepayment account is below \$100.
- A statement from a licensed service provider indicating the homeowner's furnace is inoperable and in need of repair or replacement. ERM 301, page 1

The client must complete the DHS-1514, Application for State Emergency Relief, the MDHHS-1171, Assistance Application along with the MDHHS-1171-SER supplemental form or submit an application electronically through MI Bridges.

- All household members are included in the SER group.
- Income of all household members is budgeted.
- Assets of all household members are budgeted.

- Income verification used for current eligibility for any other MDHHS administered program may be used, if available. If not available, income must be verified.
- There is no income copayment for energy-related services. The household income must be at or below the LIHEAP income limit for the group to qualify for SER. See EXHIBIT II - SER INCOME NEED STANDARDS FOR ENERGY/LIHEAP SERVICES in ERM 208.
- A determination of required payments must be made.
- The bill must be connected to the group's current address. If the bill, including old or transferred balances, must be paid to start or maintain service at the current or new address, payment may be authorized up to the fiscal year cap, as long as the payment resolves the emergency.
- The household fuel type must be correct for the type of payment requested.
- The requested amount in Bridges must match the amount on the past due or shut off notice/bill, or the declared amount needed for a deliverable fuel. If there is a discrepancy in the amount needed to resolve the emergency, there must be documentation in the case record. ERM 301, page 6

To be eligible for energy service assistance, a SER group must make required payments toward their energy service. The required payment amounts are based on the group size and service (heat or electric); see the Table of Monthly Energy Required Payments in this item.

The energy required payment period is the six-month period prior to the month the SER group applies for assistance, regardless of previous approvals. It applies even if the client has never requested or received SER energy services in the past six-months. For example, if the group applies for heating assistance on January 13, the required payment period is July through December.

Energy required payments are met if the amounts paid by the group for heating fuel and/or electricity equal or exceed the table amounts for the required payment period.

Required payments must be met for each month the SER group has an obligation to pay for the service. Failure to make required payments may result in a shortfall. ERM 310, page 7

In this case, the table of Monthly Energy Required Payments for a household group size of three is \$ [REDACTED] for the heat required payment and \$ [REDACTED] for electrical required payment, for total monthly required payment on \$ [REDACTED]. Petitioner was supposed to pay \$ [REDACTED] per month for the months of August, September, October, November, December 2017 and January 2018 respectively, for a total payments obligation of \$ [REDACTED]

Petitioner paid \$ [REDACTED] in August 2017. She paid zero in September, October, November, December 2017 and January 2018. \$ [REDACTED] in actual payment obligation minus \$ [REDACTED] in actual payment equals \$ [REDACTED] in shortfall payments. Petitioner did not meet the monthly payment obligation for her household. Therefore, Petitioner was not eligible to receive SER benefits when she had not met her required monthly heat and electric required payment.

Petitioner also conceded on the record that another agency did pay her heat and electricity bills. Thus, the emergency has been resolved.

Petitioner's request for Respondent to take into consideration the fact that two of the three people in her household have no income is an equitable argument. Petitioner's argument that the policy is incorrect is also an equitable argument to be excused from the Department's policy and SER program requirements. Equity powers are not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Health and Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

Therefore, the Administrative Law Judge finds that the department has established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with department policy when it determined that Petitioner's application for SER benefits should be denied based upon the fact that Petitioner did not meet her monthly required payments for heat and electric.

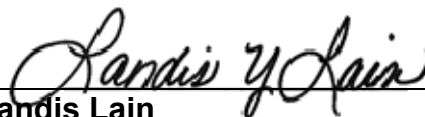
DECISION AND ORDER

Based upon the above findings of fact and conclusions of law, this Administrative Law Judge determines that the Department correctly denied Petitioner's application for SER benefits.

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

It is so **ORDERED**.

LL/hb



Landis Lain
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) 763-0155; 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]