



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: August 27, 2018
MAHS Docket No.: 18-006858
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 22, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. ██████████, Petitioner's brother, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Valarie Foley, hearing facilitator.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER).

The second issue is whether MDHHS issued payment for various SER approvals.

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 November 2, 2017, MDHHS approved Petitioner for an approximate \$██████ payment for electric services, subject to Petitioner's approximate \$██████ payment to be paid within 30 days.
2. On November 7, 2017, \$██████ was paid on Petitioner's electricity account.
3. On November 20, 2017, \$██████ was paid on Petitioner's electricity account.

4. On February 6, 2018, MDHHS approved Petitioner for a \$[REDACTED] electricity account payment.
5. On February 19, 2018, \$[REDACTED] was paid on Petitioner's electricity account.
6. On or near March 19, 2018, MDHHS approved Petitioner for a \$[REDACTED] electricity account payment.
7. On or near March 30, 2018, \$[REDACTED] was paid on Petitioner's electricity account.
8. On March 30, 2018, MDHHS approved Petitioner for a \$[REDACTED] electricity account payment.
9. On April 9, 2018, \$[REDACTED] was paid on Petitioner's electricity account.
10. On June 1, 2018, Petitioner applied for SER concerning an electricity shut-off.
11. On June 4, 2018, MDHHS denied Petitioner's SER application because her application was submitted after "crisis season". (Exhibit A, pp. 1-3)
12. After June 4, 2018, Petitioner requested a hearing to dispute the denial of SER. Petitioner also claimed that MDHHS failed to process one or more past payments for SER.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute a SER request concerning electricity services. MDHHS presented a State Emergency Relief Decision Notice (Exhibit A, pp. 1-3) dated June 4, 2018, informing Petitioner that her SER request was denied because her application was submitted outside of crisis season.

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. 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. (ERM 301 (February 2015), p. 1)

Petitioner applied for SER on June 1, 2018. Though Petitioner's application was outside of MDHHS' crisis season by only one day, it was outside of crisis season.

Petitioner testified that she would have applied for SER before June 1, 2018, but her specialist took too long to send her an application after Petitioner requested one. For purposes of this decision, Petitioner's testimony will be accepted as fact.

Petitioner essentially argued that she was entitled to a back-dating of her application for her specialist's alleged delay in mailing her an application. Such a remedy would be equitable. An equitable remedy is issued based on concepts of fairness rather than by law or policy. The administrative hearing process of the present case does not allow for equitable remedies. The remedy available to a client who establishes a delay by MDHHS is administratively ordering MDHHS to perform the delayed action. As MDHHS already completed the action (mailed Petitioner a SER application) there is no further remedy to be ordered. Given the evidence, MDHHS properly denied Petitioner's SER application dated June 1, 2018.


Petitioner also disputed that MDHHS made previously approved SER payments. The basis of Petitioner's dispute was simply that her electricity services were recently cut and they could not have been properly cut if MDHHS made all of the payments as promised. Petitioner's basis for believing that MDHHS failed to make all payments failed to consider her recent usage as a contribution to unpaid balances. Nevertheless, evidence was taken on whether MDHHS issued payments as promised.

A hearing facilitator provided dates and amounts for four SER approvals going back to November 2017. During the hearing, a representative from Petitioner's electricity company gave a statement of all payments going back to November 2017 made to Petitioner's account. All account payments corresponded with SER approvals. Given the evidence, MDHHS made all previous SER payments for which Petitioner was eligible.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's SER application dated June 1, 2018. It is further found that MDHHS properly processed Petitioner's all SER approvals for electricity back to November 2017. The actions taken by MDHHS are **AFFIRMED**.

CG/



Christian Gardocki

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

Susan Noel
MDHHS-Wayne-19-Hearings

Petitioner

[REDACTED]
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[REDACTED] MI [REDACTED]

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