



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
LANSING

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: September 4, 2018
MAHS Docket No.: 18-007792
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 29, 2018, from Lansing, Michigan. Petitioner appeared and testified. The Department of Health and Human Services (Department) was represented by R. Hamilton, Eligibility Specialist.

ISSUE

Did Petitioner withdraw his hearing request of July 26, 2018, at the August 29, 2018, administrative hearing?

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 June 28, 2018, Petitioner's previously approved SER for DTE and gas was denied due to Petitioner's failure to timely pay his DTE co-pay.
2. On July 17, 2018, a DTE payment of \$261.98 was made. On July 24, 2018, a DTE payment of \$2,528.28 was made. The payments exceeded Petitioner's amount owing on his DTE request. Petitioner did not have a copy for his gas. Exhibit A p 18.
3. The payments resolved the SER emergency.
4. On July 26, 2018, Petitioner filed a hearing request.

CONCLUSIONS OF LAW

At the end of the administrative hearing in this matter, the Respondent pointed out that payments were in fact made by a 3rd party on Petitioner's DTE account that exceeded the amount owed, thus resolving the emergency. As any payment to Petitioner even if there were eligibility would be a windfall, Petitioner stated that he wished to withdraw his hearing request and left the hearings room before the ALJ completed the hearing.

It is noted that in the alternative, as applied to this case, 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.

SER policy found in ERM 301 and 401 states that there is no eligibility where a payment would not resolve the emergency as the emergency no longer exists. As such, even if Petitioner could establish facts on which to prevail, Petitioner would not have any eligibility as Petitioner no longer had an emergency. Petitioner's entire DTE debt was not only paid but overpaid.

The Administrative Law Judge, based on the above, finds that Petitioner's request for hearing is dismissed. In the alternative, Petitioner has no eligibility for the SER program under these facts.


The Department's actions are upheld.

DECISION AND ORDER

Accordingly, Petitioner's hearing request filed herein is dismissed.

In the alternative, the Department's decision is **AFFIRMED**.

JS/hb



Janice Spodarek
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

Rolando Gomez
1365 Cleaver Road
Caro, MI 48723

Tuscola County, DHHS

BSC2 via electronic mail

T. Bair via electronic mail

D. Sweeney via electronic mail

Petitioner

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