



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

Date Mailed: April 12, 2019
MAHS Docket No.: 19-001926
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 April 4, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Latonya Johnson, specialist.

ISSUE

The issue is whether MDHHS properly did not issue State Emergency Relief payment for Petitioner's application dated January 4, 2019.

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 January 4, 2019, Petitioner applied for SER for assistance with a property tax arrearage.
2. On January 10, 2019, MDHHS approved Petitioner for SER payment of \$1,612.06, subject to copayment of Petitioner in the amount of \$346 by 2/2/19..
3. On January 28, 2019, Respondent did not submit proof of copayment to MDHHS.
4. On February 4, 2019, Petitioner submitted to MDHHS proof of \$346 copayment.

5. On February 5, 2019, Petitioner reapplied for SER seeking assistance with property taxes.
6. On an unspecified date, MDHHS approved Petitioner's second SER application for SER payment of \$1,309.54.
7. On [REDACTED], 2019, Petitioner requested a hearing disputing MDHHS' failure to pay the difference between the issued SER payment of \$1,309.54 and the conditional payment of \$1,612.06 as stated on the SER Decision Notice dated January 10, 2019.

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 MDHHS' failure to issue SER payment of \$1,612.06 for a decision dated January 10, 2019, concerning Petitioner's property taxes. Petitioner does not seek payment for the entire SER amount. MDHHS subsequently approved a second SER application from Petitioner and issued payment of \$1,309.54. Petitioner only seeks SER payment for \$302.52 - the difference between the issued SER payment and the conditional SER payment from the notice dated January 10, 2019. To determine if Petitioner is entitled to \$302.52 payment, an evaluation of whether MDHHS properly did not issue SER payment for Petitioner's SER application dated January 4, 2019, must be undertaken.

MDHHS provided a State Emergency Relief Decision Notice stating that Petitioner was approved for \$1,612.06 for property taxes, subject to a \$346 copayment by Petitioner. The notice stated that MDHHS would not make payment unless Petitioner provided proof of copayment by February 2, 2019. The only dispute concerning issuance of payment concerned whether Petitioner timely provided MDHHS with proof of a \$356 copayment.

If the SER group meets all eligibility criteria but has an income or asset copayment, shortfall, and/or contribution, MDHHS is to not issue payment until the client provides proof that their payment has been made. ERM 103 (January 2018) p. 4. Verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made and the client must reapply. *Id.*

During the hearing, Petitioner provided documentation to MDHHS that she faxed proof of her copayment on February 4, 2019. MDHHS testimony acknowledged the validity of

the documentation. Petitioner's date of submission was after the deadline of February 2, 2019. The deadline of February 2, 2019, was proper as it was the 30th day after Petitioner's application dated January 4, 2019.

Consideration was given to finding that Petitioner's submission dated February 4, 2019, was timely because February 2, 2019, fell on a Saturday (a non-business day for MDHHS) and Petitioner submitted proof to MDHHS on the first business day after February 2, 2019. MDHHS policy occasionally allows for client submissions on the business day following a due date when the due date falls on a non-business day. For example, clients may submit SER verifications after the due date on a Verification Checklist if the checklist due date falls on a holiday. *Id.*, p. 6. Presumably, MDHHS did not intend exceptions to the 30-day timeframe for clients to submit proof of copayment because there is no stated exception. Also considered is that clients have the ability to fax documents to MDHHS on non-business days. Thus, Petitioner's submission to MDHHS on February 4, 2019, was properly recognized by MDHHS as untimely proof of copayment by Petitioner.

MDHHS denied receiving any other proofs of copayment from Petitioner. Petitioner testified that she first submitted proof of copayment to MDHHS on January 28, 2019. Petitioner testified that she faxed the proof of her copayment to MDHHS from a doctor's office. Petitioner testified she tried to obtain a fax confirmation a few days later but was unable to do so because too much time had passed since her alleged faxing. During the hearing, Petitioner was only able to offer her handwritten statement that she faxed proof of copayment on January 28, 2019.

As the person submitting a document, the burden of proof falls on Petitioner to establish submission. Though Petitioner's testimony was credible on its face, it was insufficient to establish that she submitted proof of her copayment to MDHHS on January 28, 2019.

Given the evidence, Petitioner failed to establish that she timely submitted to MDHHS proof of a \$346 copayment. Thus, MDHHS properly did not issue SER payment related to Petitioner's application dated January 4, 2019.

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 application dated January 4, 2019, due to Petitioner's failure to timely submit to MDHHS proof of copayment. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



Christian Gardocki

Administrative Law Judge
for Robert Gordon, 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

Via Email:

MDHHS-Oakland-2-Hearings
T. Bair
E. Holzhausen
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]