



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: May 7, 2019
MOAHR Docket No.: 19-002754
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 1, 2019, from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Marlon Dorsey, Family Independence Manager, and Krystina Blakely, Eligibility Specialist. During the hearing, a 24-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-24.

ISSUE

Did the Department properly deny Petitioner's February 25, 2019, application for State Emergency Relief (SER) benefits?

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] 2019, Petitioner submitted to the Department an application for SER benefits for assistance with paying an electricity bill. Along with the application, Petitioner submitted the bill and numerous financial documents. Exhibit A, pp. 3-15.
2. On February 25, 2019, the Department issued to Petitioner an Appointment Notice informing Petitioner of a telephone appointment to take place on March 4, 2019, at 3:00 pm. Petitioner was informed that she would receive a phone call at that time from her specialist. Exhibit A, p. 16.

3. On March 4, 2019, at 3:04 pm, Petitioner's specialist, Ms. Blakely, called Petitioner. Petitioner attempted to answer the phone but was unsuccessful. Two minutes later, Petitioner called Ms. Blakely, but the call went unanswered. At 3:21 pm, Petitioner called Ms. Blakely's supervisor. That call went unanswered as well.
4. On March 5, 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that her application for SER benefits was denied due to Petitioner's failure to answer the phone for her March 4, 2019, interview. Exhibit A, pp. 18-20.
5. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the denial of her February 25, 2019, SER application.

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 sought SER assistance from the Department in paying her electric bill by filing a [REDACTED] 2019, application. The following day, the Department issued to Petitioner an Appointment Notice informing Petitioner that she would receive a call on March 4, 2019, at 3:00 pm for a telephone interview with her specialist, Ms. Blakely. Petitioner did not answer Ms. Blakely's phone call. However, two minutes after Ms. Blakely called, Petitioner called her back. Ms. Blakely did not answer as she had left for the day after placing the call to Petitioner. About 15 minutes later, Petitioner called Ms. Blakely's supervisor, who also did not answer. The following day, the Department issued to Petitioner a State Emergency Relief Decision Notice denying Petitioner's SER application based on Petitioner's failure to answer the phone call for the interview.

SER is a program that helps to prevent serious harm to individuals and families facing certain crises. ERM 101 (March 2013), p. 1. The program may be available to assist low-income households who meet all SER eligibility requirements with things such as household heat and electric costs. ERM 301 (March 2019), p. 1. The standard of promptness for SER is ten calendar days, beginning with the date the signed SER application is received in the local office. ERM 103, p. 5. All SER applications require an interview with an adult member of the SER group, which can be either in person or over the telephone. ERM 103 (March 2019), p. 5. The Department cannot use the standard of promptness as a basis for denial of an SER application. ERM 103, p. 5. An

SER application must continue to pend if the SER group is cooperating within their ability and can only be denied for timeliness issues if the group does not cooperate. ERM 103, p. 5.

At the hearing, the Department witness testified that once Petitioner missed the phone call, the Department was required to issue the denial in order to meet the standards of promptness applicable to SER. However, at that point, Petitioner had not failed to cooperate in any meaningful way. In fact, based on the evidence presented at the hearing, Petitioner attempted to answer the 3:04 pm interview phone call scheduled for March 4, 2019, at 3:00 pm. Then, less than two minutes later, Petitioner called the Department back attempting to participate. Petitioner then made another call that same day to another person at the Department but was never able to get in contact with anyone. The following day, the denial letter was issued. Based on the record presented, the Department based its denial solely on the standards of promptness, which it is not permitted to do. In this case, Petitioner was cooperating within her ability, and consequently, the application should have been pended as opposed to denied.

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 the Department did not act in accordance with Department policy when it denied Petitioner's application for SER benefits.

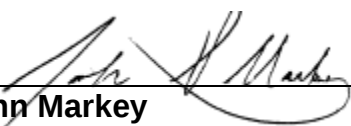
DECISION AND ORDER

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

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 Petitioner's [REDACTED] 2019, SER application;
2. If Petitioner is eligible for SER after reprocessing the application, issue supplements to Petitioner or on her behalf in accordance with Department policy; and
3. Notify Petitioner in writing of its decisions.

JM/cg



John Markey
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Kent-1-Hearings
T. Bair
E. Holzhausen
BSC3- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]