



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

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

Date Mailed: April 30, 2019
MOAHR Docket No.: 19-002815
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 25, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Richkelle Curney, hearing facilitator.

ISSUE

The issue is whether MDHHS properly failed to issue payment 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 October 3, 2018, Petitioner applied for SER seeking assistance for rent arrearage.
2. On an unspecified date, Petitioner submitted documentation of a court judgment stating that Petitioner was to pay \$[REDACTED] in back rent and \$[REDACTED] in court costs.
3. On an unspecified date, MDHHS approved Petitioner for \$[REDACTED] in SER subject to an unspecified copayment by Petitioner. Petitioner paid her copayment and timely submitted proof to MDHHS.

4. On March 28, 2019, Petitioner requested a hearing to dispute MDHHS failing to issue SER payment.
5. As of April 25, 2019, MDHHS had not issued SER payment to Petitioner's landlord.

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 Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute an MDHHS failure to issue SER payment for rent arrearage from a SER application dated October 3, 2018. MDHHS testimony conceded that SER payment had not yet been made.

Court documentation dated October 3, 2018, established that Petitioner needed \$[REDACTED] to avoid eviction. Exhibit A, p. 5. MDHHS did not provide documentation of the approval notice but MDHHS testimony conceded that Petitioner was approved for SER payment after Petitioner timely submitted proof of an unspecified copayment for a portion of the \$[REDACTED]

MDHHS presented 31 pages of emails involving Petitioner's specialist, Petitioner's landlord, a MDHHS district office manager, MDHHS database technical support, and/or SER policy staff. Exhibit A, pp. 6-36. The emails involved discussions of the following: enrolling Petitioner's landlord as a provider that can accept MDHHS payments, whether \$[REDACTED] in court costs should be considered as part of Petitioner's SER payment, and whether MDHHS should cover payment of Petitioner's court costs through Emergency Services (ES) funds. MDHHS' failure to issue SER payment appears to relate to the final email threads which involve repeated requests by a policy analyst to verify that ES funds will cover \$[REDACTED] of Petitioner's payment.

In the majority of cases, SER is sufficient to resolve threats to health and safety. ERM 2019 (October 2017) p. 1. However, due to the nature of emergencies and variations in SER group circumstances, unusual situations may exist which cannot be resolved through SER. *Id.* ES funds are allocated to each local office to provide assistance when SER will not cover the requested service or the SER payment will not resolve the emergency. *Id.* Each ES authorization requires the completion of the MDHHS-5602 Payment Request, and must have the signature of the worker, supervisor or manager. *Id.*, p. 5.

The hearing packet included a signed DHS-1291 Local Payment Authorization, which MDHHS claimed was the form that was to be used to issue ES funds. Including the form in the packet appeared to be Petitioner's specialist method of verifying that the local

MDHHS office attempted to approve Petitioner for ES funds but that other departments have not fulfilled their duties.

An analysis of which MDHHS department and/or staff is to blame for not issuing SER and ES fund payment is outside the scope of administrative hearing jurisdiction. The only relevant facts are that MDHHS approved Petitioner for SER payment and has not yet issued payment despite the passage of several months and no fault of Petitioner. To remedy the excessive delay, MDHHS will be ordered to issue the unspecified SER payment and ES funds.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to issue SER payment. It is ordered that MDHHS issue SER payment for Petitioner's application for rent arrearage dated October 3, 2018, within 10 days of the date of mailing of this decision: The actions taken by MDHHS are **REVERSED**.

CG/jaf



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 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

DHHS

Tara Roland 82-17
MDHHS-Wayne-17-Hearings

Petitioner

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