



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 17, 2019
MOAHR Docket No.: 19-002917
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 9, 2019, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Pamela Carswell, Assistance Payments Worker. During the hearing, an 11-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-11.

ISSUE

Did the Department properly deny Petitioner's application 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 February 8, 2019, Petitioner submitted to the Department an application for SER benefits. Exhibit A, p. 7.
2. On February 20, 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that his SER application was denied. According to the document, the services requested were "Moving Expenses" and "Security Deposit." The reason given for the denial was that "Relocation – The service you have requested is not covered under SER policy." Exhibit A, pp. 10-11.

3. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's action.

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. SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2018), p. 1. The Department is prohibited from issuing an SER benefit unless it resolves the emergency. ERM 303, p. 1. Housing affordability is a condition of eligibility for SER and applies to Relocation Services and Home Ownership Services and Home Repairs. ERM 207 (October 2015), p. 1. Affordable housing is defined as a group having a total housing obligation which does not exceed 75% of the group's total net countable income. ERM 207, p. 1; ERG Glossary (February 2017), p. 1.

In this case, Petitioner filed an application for SER benefits on February 8, 2019. On February 20, 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that his SER application was denied. According to the document, the services requested were "Moving Expenses" and "Security Deposit." The reason given for the denial was that "Relocation – The service you have requested is not covered under SER policy." On March 21, 2019, Petitioner submitted a request for hearing objecting to the Department's denial of the February 8, 2019 application.

Clients have the right to contest a Department decision affecting eligibility or benefit levels, including termination of program benefits, when the client believes the decision is incorrect. BAM 600 (October 2018), pp. 1, 5. When a hearing request is filed, the matter is transferred to the Michigan Office of Administrative Hearings and Rules (MOAHR) for a hearing before an Administrative Law Judge. BAM 600, p. 1. In preparation for the hearing, the Department is required to send to MOAHR and the client a hearing summary. BAM 600, pp. 9-10, 24. The hearing summary is required to include a clear, concise statement of the case action taken, a chronological summary of events, and citations to relevant law and policy, amongst other things. BAM 600, p. 10. Additionally, a hearing packet must be prepared to send along with the hearing summary. BAM 600, p. 10. The completed hearing packet must include, at a minimum, the relevant Notice of Case Action or Health Care Coverage Determination Notice and a copy of all documents the Department intends to offer to support its action. BAM 600, p. 10.

At the hearing, the Department representative and client are tasked with presenting their respective cases with reference to the documents provided in the hearing packet or otherwise properly served under the Michigan Administrative Rules. BAM 600, p. 37. After hearing the evidence, the Administrative Law Judge has the duty to review the evidence presented and based on that evidence, determine whether the Department met its burden of proving that the challenged actions were taken in compliance with law and Department policy. BAM 600, p. 39.

On March 21, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's denial of his SER application. The matter was transferred to MOAHR for a hearing on the contested issue. The Department put together a hearing summary outlining the Department's case and a hearing packet consisting of documentation purported to be relevant to the matter at hand. The hearing summary statement read, in full, as follows: "[REDACTED] applied for SER on 02/11/2019 (Exhibit A). On 02/20/2019 [REDACTED] was sent a SER Decision Notice stating that his request was denied (Exhibit B). [REDACTED] is trying to receive down payment/earnest money assistance to purchase a home which is not covered under SER policy." The only relevant substantive documents in the hearing packet consisted of the first page of the February 8, 2019 SER application and the three-page February 20, 2019 State Emergency Relief Decision Notice.

Notably, the packet does not include any actual request placed by Petitioner for SER benefits. The portion of the application provided simply had a box checked under SER indicating that SER benefits were being requested. What was actually requested was not in the record. Instead, the parties testified about the contents of the request. After listening to the testimony, it is still not entirely clear what exactly Petitioner was requesting. Petitioner did acknowledge that at some point he requested help with a down payment on a land contract, which is what the Department indicated on the hearing summary. However, Petitioner also indicated that he requested help with moving expenses and a security deposit, which if otherwise eligible, are things the SER program may pay for. Without the actual request or clarity from the testimony, it is impossible to determine what exactly was requested.

Additionally, the State Emergency Relief Decision Notice states that Petitioner requested assistance with moving expenses and a security deposit. Just below that, it is represented that "[t]he service [Petitioner] requested is not covered under SER policy." As both moving expenses and security deposit assistance are services specifically covered under SER policy, the decision was clearly based on a faulty premise.

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 failed to satisfy its burden of showing that it acted 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 SER application;
2. Determine Petitioner's eligibility for SER benefits;
3. If there are any questions regarding Petitioner's eligibility for SER benefits, follow Department policy in gathering verifications of relevant eligibility-related factors; and
4. Accurately notify Petitioner in writing of its decisions and the reasons therefore.

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-Wayne-57-Hearings
T. Bair
E. Holzhausen
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]