



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.: 19-003491
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 15, 2019, from Detroit, Michigan. Petitioner was present with her husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Kathleen Curtis, Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's State Emergency Relief (SER) application?

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 4, 2019, Petitioner submitted an application for SER benefits (Exhibit A).
2. On February 4, 2019, the Department sent Petitioner an Appointment Notice for a telephone interview scheduled on February 11, 2019 (Exhibit B).
3. On February 13, 2019, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her application for SER benefits was denied (Exhibit C).
4. On February 14, 2019, Petitioner appeared at her local Department office.

5. On [REDACTED], 2019, Petitioner submitted a request for hearing.

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 submitted an SER application on February 4, 2019, requesting energy-related assistance. On February 4, 2019, the Department sent Petitioner an Appointment Notice informing her that a telephone interview was scheduled on February 11, 2019.

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance for energy related services to help them with household heat and electric costs. ERM 301 (February 2017), p. 1. When completing an application for SER benefits, the in-person interview requirement is waived but a phone interview is required for active applicants. ERM 103 (October 2017), p. 5. In-person interviews are required for persons who are applying for SER services and are not active for another Department program. ERM 103, p. 5. The SER standard of promptness is 10 calendar days, beginning with the date the SER application is received. ERM 103, p. 5. The Department will pend an application if the SER group is cooperating within their ability to provide verifications. ERM 103, p. 5. The Department will deny the SER application if the group does not cooperate. ERM 103, p. 5.

The Department testified that an attempt was made to contact Petitioner on February 11, 2019. Petitioner did not answer her phone and did not contact the Department to participate in her interview. As a result, the Department sent Petitioner an SER Decision Notice on February 12, 2019, informing her that her SER application was denied.

Petitioner testified that she did not receive the Appointment Notice and did not receive a phone call on February 11, 2019. Petitioner testified that she appeared at her local office on February 14, 2019, to determine the status of her SER application. Petitioner was advised that she missed her interview. However, Petitioner was notified by an individual at her local office that the interview could be completed that day. Petitioner testified that she was interviewed on February 14, 2019, related to her SER application.

Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220 (January 2018), p. 2. Negative actions must be deleted in some

situations. BAM 220, p. 13. One such situation is when the requirement is met before the negative action effective date. BAM 220, p. 13. The Department will enter the information the client provided to meet the requirement that caused the negative action into the system. BAM 220, p. 13. The Department will then take the additional following actions: (i) reactive the program(s); and (ii) run eligibility and certify the results. BAM 220, p. 13. The negative action date is the day after the timely hearing request date on the notice of case action. BAM 220, p. 12. A timely hearing request is a request received within 10 days of the date the notice of case action was issued. BAM 600 (January 2018), p. 25. When the 10th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. BAM 600, p. 25.

Petitioner gave credible testimony that she completed her SER application interview on February 14, 2019. According to the SER Decision Notice, the timely hearing request date was February 25, 2019. Therefore, Petitioner completed the requirement within the negative action period. Thus, the Department failed to act in accordance with policy when it did not delete the negative action.

DECISION AND ORDER

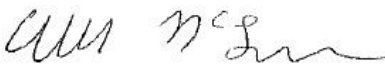
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it processed Petitioner's SER application.

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. Reinstate and reprocess Petitioner's February 4, 2019 SER application;
2. If Petitioner is eligible for SER benefits, issue payments in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.

EM/cg



Ellen McLemore
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 Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Sanilac-Hearings
T. Bair
E. Holzhausen
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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