



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], MI [REDACTED]

Date Mailed: June 13, 2019
MOAHR Docket No.: 19-004554
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 June 6, 2019, from Lansing, Michigan. The Petitioner was represented by Petitioner [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Brenda Drewnicki, Hearings Facilitator.

Respondent's Exhibit A pages 1-24 were admitted as evidence. Petitioner's Exhibit 1 was admitted as evidence.

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 [REDACTED] [REDACTED] 2019, Petitioner applied for SER for assistance with her eviction notice.
2. The Department withdrew Petitioner's application indicating that it was at Petitioner's request.

3. The Department had no proof that Petitioner withdrew her application.
4. On [REDACTED] [REDACTED] 2019, Petitioner reapplied for SER.
5. On January 22, 2019, the Department approved Petitioner for State Emergency Relief.
6. There is no proof in the file that the Department notified Petitioner of the approval.
7. On [REDACTED] [REDACTED] 2019, Petitioner applied for SER again.
8. On February 19, 2019, the Department sent Petitioner Notice that her application was approved for \$345.30 once Petitioner paid \$1,933.70 total co-payment by March 12, 2019.
9. The Department alleged that Petitioner resolved her emergency through payment received on January 15, 2019, in the amount of \$1,539.00 prior to her February 11, 2019 application.
10. On April 26, 2019, Petitioner filed a Request for Hearing to contest the Department's negative actions.
11. On May 10, 2019, the Michigan Office of Administrative Hearings and Rules received the Hearing Summary and attached documents.
12. No one from the Department was available to testify as to what actually happened.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Bridges Administrative Manual (BAM 600).

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.

Requirements

Residence in the state of Michigan is not required. SER serves all persons physically present in Michigan. In addition, SER applicants must:

- Complete the application process.
- Meet financial and non-financial requirements.
- Have an emergency which threatens health or safety and can be resolved through issuance of SER.
- Take action within their ability to help themselves. For example, obtain potential resources and/or apply for assistance.
- Not have caused the emergency; see ERM 204, Client-Caused Emergencies.
- Cooperate in providing information about income, assets, living arrangements, and other persons living in the home.

Deny SER services for applicants who fail to meet any of the above requirements. ERM 101, page 1

In this case, the Department Representative was not the person who worked on the case. The Department's Representative was inconsistent and provided conflicting information. This administrative law judge finds that the Department has not established by the necessary competent, material and substantial evidence on the record that it is acting in compliance when it withdrew Petitioner's January 4, 2019, application. There is no evidence beyond the bald testimony by the Department Representative who did not witness the event to support the contention that Petitioner requested to withdraw the application. Therefore, the Department has not established this case by a preponderance of the evidence.

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. Reinstate Petitioner's January 4, 2019, SER application;
2. Reassess Petitioner's eligibility for SER;
3. If Petitioner is otherwise eligible, pay two higher the amount of SER benefits to which she is entitled.

LL/hb



Landis Lain
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

Vivian Worden
21885 Dunham Road
Clinton Twp., MI 48036

Macomb County (District 12), DHHS

BSC4 via electronic mail

T. Bair via electronic mail

E. Holzhausen via electronic mail

Petitioner

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