



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: July 2, 2019
MOAHR Docket No.: 19-004629
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 5, 2019, from Detroit, Michigan. Petitioner appeared for the hearing with her mother, [REDACTED] and her Chore Provider, [REDACTED]. [REDACTED] offered witness testimony on Petitioner's behalf. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor; [REDACTED], Assistance Payments Supervisor; and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) assistance with furnace repair?

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 or around April 2, 2019, Petitioner submitted an application for SER assistance with furnace repair. (Exhibit A, pp. 9-13)
2. Petitioner resides in a 2004 [REDACTED] Fifth Wheel situated on a cement slab on her property lot and registered/titled with the Secretary of State as a Trailer Coach. (Exhibit B)

3. On April 4, 2019, the Department sent Petitioner an Application Notice (Notice) informing her that her request for assistance with furnace repair was denied on the basis that furnace repair for a camper is not covered under SER policy. (Exhibit A, pp. 6-7)
4. On or around April 22, 2019, Petitioner requested a hearing disputing the denial of her request for SER assistance with furnace repair. In her request for hearing, Petitioner asserted that: her mobile home is fully equipped; it is on a 20'x40' cement slab; the wheels have been removed; it is hooked up to septic, water, and electric utility services; there is an additional structure built and attached; and the entire structure is covered by a steel roof. Petitioner asserted that this is her permanent home, that she pays homeowners insurance and that it is her homestead property. (Exhibit A, pp. 3-5)

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 with home repairs to correct unsafe conditions and restore essential services. ERM 304 (October 2015), p. 1. The Low-Income Home Energy Assistance Program (LIHEAP) is the funding source for energy-related repairs. Repair or replacement of a non-functioning furnace is currently the only allowable energy-related home repair. The lifetime maximum for energy-related home repairs is \$4,000. ERM 304, p.2.

In this case, Petitioner applied for SER assistance with a furnace repair. The Department testified that in processing the application, it obtained information that Petitioner's request for assistance was to repair the furnace in her RV/Camper, which is her primary residence. The Department presented documentation from the Secretary of State showing that Petitioner's residence is registered/titled as a Trailer Coach. (Exhibit B). The Department testified that it requested a policy clarification and inquired as to whether SER funds could be provided to replace or repair a furnace in a camper if it is the client's residence. The response from the SER policy department was that because an RV/Camper is not considered a home, SER cannot assist with home repairs. (Exhibit A, p. 8). The Department stated that a home is considered a permanent structure.

ERM 201 indicates that a home means the place where members of the SER group keep their personal belongings and sleep, which **may** be an apartment, a house, a mobile home, or a rented room. (Emphasis added). ERM 201 (October 2015), p. 1. Petitioner did not dispute that her residence was registered or titled as a Trailer Coach with the Michigan Secretary of State. However, Petitioner asserted that that her 35' fifth wheel is fully equipped and has been her permanent and primary residence for the last five years. Petitioner and her witness testified that her residence is a permanent structure and that it is not movable, as the wheels have been removed. Petitioner testified that it is akin to what the Department considers a mobile or manufactured home, as it is hooked up to utilities such as water, electricity, septic, and further that a county/permit approved roughly 6'x25' addition was built abutting the side, all of which are covered by a steel roof. There is also a deck attached and built in storage units below. Petitioner presented photographs in support of her testimony and further testified that she had been approved for SER services in the past for this residence. (Exhibit 1; Exhibit A, p. 3). The Department did not present any evidence to rebut Petitioner's testimony or supporting documentation. Petitioner's evidence was sufficient to establish that while her residence is registered as a Trailer Coach, upon review, it can be considered a home for SER purposes.

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 request for SER assistance with furnace repair.

DECISION AND ORDER

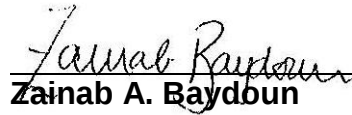
Accordingly, the Department's decision is **REVERSED**.

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. Reregister and process Petitioner's April 2, 2019 application for SER assistance with furnace repair to determine if all other eligibility factors are met;
2. Issue supplements to Petitioner and/or her provider for any SER benefits Petitioner was eligible to receive but did not in accordance with Department policy; and

3. Notify Petitioner in writing of its decision.

ZB/tlf



Zainab A. Baydoun
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:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]