



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

Date Mailed: August 27, 2019
MOAHR Docket No.: 19-007692
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 August 22, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Julie Bair, Hearings Facilitator, and Brenda Moorehead, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's June 26, 2019 State Emergency Relief (SER) application requesting rent assistance to avoid eviction, and if it was improper, is there any remedy Petitioner can be provided?

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], 2019, Petitioner submitted to the Department an application for SER benefits for assistance with paying her back rent in order to prevent eviction.
2. On July 1, 2019, the Department issued to Petitioner a Verification Checklist requested documents related to household assets. The requested proofs were due back to the Department by July 8, 2019.
3. On July 5, 2019, Petitioner returned to the Department a photocopy of a debit card with a handwritten statement indicating that the card had a balance of \$533.16.

4. On July 9, 2019, Petitioner was evicted from her residence.
5. On July 10, 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that her application for SER benefits for rent assistance to avoid eviction was denied. The document stated that the reason for the denial was that Petitioner allegedly failed to verify information necessary to determine Petitioner's eligibility.
6. Also on [REDACTED] 2019, Petitioner submitted to the Department another application for SER benefits. However, as Petitioner had already been evicted, the [REDACTED], 2019 application requested assistance with relocation expenses.
7. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the July 10, 2019 denial of Petitioner's [REDACTED] 2019 application for SER benefits.
8. Following the filing of the [REDACTED] 2019 request for hearing, the Department has taken other actions with which Petitioner disagrees.

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. In order to be approved, an applicant must verify that he or she is eligible, which includes the verification that an emergency exists. ERM 103 (March 2019), p. 1; ERM 303, pp. 1-2. Applicants must be informed of all verifications that are required and where to return verifications. ERM 103, p. 6. The due date for verification is eight calendar days from the date the verification is requested. ERM 103, p. 6. The applicant must make a reasonable effort to obtain required verifications. ERM 103, p. 6. The Department must deny an application if the applicant does not take action within their ability, including the procurement and providing of verifications. ERM 102 (October 2018), p. 1.

When Petitioner applied for SER benefits for rent assistance to avoid eviction, her application and supporting documents showed that she had an emergency. The

Department followed Department policy in promptly issuing the verification checklist asking for information related to assets. Petitioner attempted to timely comply with the request, but what she submitted to the Department was not deemed insufficient.

Petitioner's attempt to provide the requested verifications probably should have resulted in a follow-up contact informing Petitioner that what she submitted was not sufficient and advising her that she still had a couple of days to submit the requested documentation. Instead, Petitioner was evicted four days after she submitted the verification, and the following day, the Department denied Petitioner's application for SER benefits because of Petitioner's failure to provide the requested verifications. The day after her application was denied, Petitioner submitted to the Department a request for hearing.

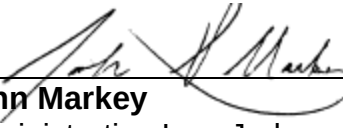
While the processing of Petitioner's verifications and eventual denial of Petitioner's application for SER benefits to avoid eviction may have included errors, the fact remains that SER benefits are only to be issued to resolve emergencies. As of the date of the eviction, the emergency had already materialized and was not resolvable by the issuance of SER funds. Thus, the Department is prohibited from issuing any SER funds to avoid that eviction. Likewise, the undersigned Administrative Law Judge cannot order the Department to take action that it is prohibited by law from taking.

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 Petitioner is not eligible for the issuance of SER benefits to prevent an eviction that has already happened.

DECISION AND ORDER

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

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-Calhoun-Hearings
T. Bair
E. Holzhausen
BSC3-Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]