



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: September 17, 2019
MOAHR Docket No.: 19-008056
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on September 11, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared with [REDACTED] [REDACTED] Petitioner's care provider, and [REDACTED] [REDACTED] Petitioner's counselor. Respondent, Department of Health and Human Services (Department), had Jorge Herrera, Eligibility Specialist, appear on its behalf. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 25-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Did the Department properly deny Petitioner's request 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 requested SER from the Department to replace his outdoor wood burning furnace. Petitioner provided a quote for an EDGE 550 outdoor wood burning furnace, which indicated the unit would cost \$10,606.92.
2. On June 25, 2019, Petitioner provided the Department with a letter from the outdoor wood burning furnace installer, which stated that the EDGE 550 is an EPA certified phase 2 unit.

3. The Department reviewed Petitioner's request and determined that wood burning units are not eligible for replacement through SER.
4. On June 26, 2019, the Department mailed a State Emergency Relief Decision Notice to Petitioner to notify him that his request was denied because the unit did not meet energy efficiency requirements.
5. On July 17, 2019, Petitioner requested a hearing to dispute the Department's decision.

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 pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, Petitioner is disputing the denial of his request for SER to replace his outdoor wood burning furnace. ERM 304 is the relevant policy. Repair or replacement of a non-functioning furnace is currently the only allowable energy-related home repair. ERM 304 (October 1, 2018), p. 2. All new furnaces must meet the following energy efficiency requirements: (a) non-boiler furnaces must be non-condensing models with annual fuel utilization efficiency (AFUE) minimum rating of 78 percent; and (b) boiler furnaces and mobile home furnaces must be non-condensing models with AFUE minimum rating of 70 percent. *Id.* at 6. Thus, it is the AFUE that is relevant to determine whether a unit meets energy efficiency requirements. When Petitioner applied for SER to replace his outdoor wood furnace, Petitioner did not provide any documentation to establish that the unit has the required AFUE. Thus, the Department had no way to determine that the unit met minimum energy efficiency requirements. Therefore, the Department properly denied Petitioner's request.

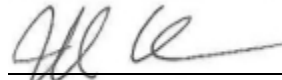
Petitioner asserted that the unit is more of a boiler than a furnace, so his request should not have been denied. Regardless of whether the unit is considered a boiler or a furnace, it is still subject to a minimum energy efficiency requirement as measured by AFUE. Petitioner did not present any evidence to establish that the unit had an AFUE measurement. Thus, Petitioner did not present any evidence to establish that the unit met the minimum energy efficiency requirement.

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 act in accordance with its policies and the applicable law when it denied Petitioner's request for SER.

IT IS ORDERED the Department's Decision is **AFFIRMED**.

JK/nr



Jeffrey Kemm
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

Jessica Tokar
1509 Washington, Ste. A
PO BOX 1609
Midland, MI
48641

Midland County DHHS- via electronic mail

BSC2- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

Petitioner

[REDACTED]
MI