



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: October 4, 2019
MOAHR Docket No.: 19-008524
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

AMENDED 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, an in-person hearing was held on September 4, 2019, at the Michigan Department of Health and Human Services, Ingham County, Michigan. Petitioner personally appeared and testified. The Department of Health and Human Services (Department) was represented by Hearing Facilitator, Amber Gibson.

ISSUE

Did the Department properly rescind the approval of State Emergency Assistance (SER) to Petitioner?

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 applied for State Emergency Assistance (SER). [Dept. Exh. 1].
2. On June 22, 2019, [REDACTED] [REDACTED] signed a lease renewal term from August 1, 2019 through July 31, 2020 at [REDACTED], MI [REDACTED] [Petitioner Exh. 6].
3. On June 24, 2019, the Department referred Petitioner's case to the Inspector General because Petitioner alleged no income but made payments on her heat utility bill. [Dept. Exh. 1].

4. On June 26, 2019, the Department approved Petitioner's request for SER. [Dept. Exh. 7-9].
5. On June 27, 2019, the Department received the Inspector General's report which indicated that Petitioner's ex-husband, [REDACTED] [REDACTED] used Petitioner's address of [REDACTED] MI on his driver's license, voter's registration and vehicle registration. Further, both Petitioner and [REDACTED] [REDACTED] were joint property homeowners of the residence. Petitioner was interviewed and reported that [REDACTED] [REDACTED] was living in East Lansing. When asked where in East Lansing, Petitioner stated she did not want to get [REDACTED] involved in the matter. [Dept. Exh. 10-22].
6. On June 28, 2019, Petitioner's case was cancelled due to the FEE Referral results. [Dept. Exh. 6].
7. On [REDACTED] [REDACTED] Petitioner requested a hearing. [Dept. Exh. 3-5].
8. On September 4, 2019, during the hearing in the above-captioned matter, Petitioner submitted a notarized letter from [REDACTED] [REDACTED] [REDACTED] indicating he had not lived at [REDACTED] since July 2018 and that he covered Petitioner's mortgage, water, light and waste management bills. He also listed his address as [REDACTED], MI [REDACTED]. The letter was dated August 24, 2019. [Petitioner Exh. 1].
9. On September 4, 2019, Petitioner submitted a Definition Annex to Apartment Lease, of [REDACTED] MI [REDACTED] Lease and Possession Date was August 17, 2018. Lease and Possession End Date of July 31, 2019. [REDACTED] [REDACTED] signed the document on August 17, 2018. [Petitioner Exh. 4-5].

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.

In this case, Petitioner submitted a SER application indicating she was unemployed. During the interview, Petitioner reported that her ex-husband paid the mortgage and other utilities, but he did not live with her and he lived in [REDACTED]. The Department requested a FEE referral.

An investigation was conducted by the Inspector General who found that Petitioner's ex-husband, [REDACTED] [REDACTED] used Petitioner's address of [REDACTED], [REDACTED] MI on his driver's license, voter's registration and vehicle registration. Further, both Petitioner and [REDACTED] [REDACTED] were joint property homeowners of Petitioner's residence. When Petitioner was interviewed, she reported that [REDACTED] [REDACTED] was living in [REDACTED] and she did not want to get [REDACTED] involved in the matter.

Upon receiving the results of the FEE Investigation, the Department denied Petitioner's SER until Petitioner provided [REDACTED] information. No evidence was provided by the Department indicating that Petitioner was sent a Notice of Case Action informing her that her SER had been denied. No evidence was submitted that Petitioner was informed that if she provided evidence of [REDACTED] residence, SER would again be approved.

On September 4, 2019, Petitioner submitted credible evidence that [REDACTED] was living at [REDACTED], MI [REDACTED] in the form of a lease signed by [REDACTED] on August 17, 2018. Further, [REDACTED] also signed a renewal lease for the same apartment on June 22, 2019.

Based on the evidence submitted, this Administrative Law Judge finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it revoked the approval of SER to Petitioner.


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. Redetermine Petitioner's SER application of [REDACTED] 2019.
2. Issue a Notice of Case Action to all parties indicating the results of the redetermination.

VLA/nr



Vicki L. Armstrong
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

Amber Gibson
5303 South Cedar
PO BOX 30088
Lansing, MI
48911

Ingham County DHHS- via electronic mail

BSC2- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

Petitioner

[REDACTED], MI