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GOVERNOR

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

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DIRECTOR

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Date Mailed: October 7, 2019
MOAHR Docket No.: 19-008664
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 October 2, 2019, from ██████████ Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Chirina James, specialist, and Olivette Gordon, manager.

ISSUE

The issue is whether MDHHS properly denied 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 July 16, 2019, Petitioner applied for SER seeking assistance for a shut-off of energy services.
2. On July 23, 2019, MDHHS telephoned Petitioner. Petitioner did not answer and MDHHS was unable to leave a message.
3. On July 24, 2019, MDHHS telephoned Petitioner. Petitioner did not answer and MDHHS was unable to leave a message.
4. On July 25, 2019, MDHHS telephoned Petitioner. Petitioner did not answer and MDHHS was unable to leave a message.

5. On July 25, 2019, MDHHS denied Petitioner's SER application due to Petitioner's failure to be interviewed.
6. As of July 25, 2019, Petitioner had not been interviewed by MDHHS for SER.
7. On August 9, 2019, Petitioner requested a hearing to dispute the denial of SER.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute a denial of an SER application dated July 16, 2019, requesting assistance with energy services. An Application Notice dated July 23, 2019, stated that Petitioner was denied due to failing to provide MDHHS with required information. Exhibit A, p. 1. MDHHS testimony clarified that Petitioner specifically failed to be interviewed.

Applicants must be cooperative in the application process. ERM 102 (October 2018), p. 2. MDHHS is to deny applicants if an applicant refuses to take action. *Id.*

All SER applications require an interview with an adult member of the SER group or the authorized representative. ERM 103 (October 2018), p. 5. At minimum, a phone interview must be completed. *Id.*

MDHHS policy is not known to specify what attempts MDHHS must take to interview a client. In lieu of such policy, a requirement of a good faith effort involving multiple attempts will be inferred.

Petitioner's specialist credibly testified that Petitioner was called on July 23, 2019; July 24, 2019; and July 25, 2019, for the purpose of interviewing Petitioner. Petitioner's specialist documented the calls in comments about Petitioner's case. Petitioner's specialist also testified and documented that Petitioner did not answer any of the calls, and there was no way to leave a message asking Petitioner for a return call. Petitioner responded that he did have phone service at the time and had no way of knowing that MDHHS called. The testimony of MDHHS and Petitioner was credible and will be accepted as fact.

MDHHS made three attempts over three days to contact Petitioner. The attempts qualify as a good faith effort to contact Petitioner. Additionally, MDHHS waited nine days from the date of application before denying Petitioner's SER application; the standard of promptness for processing SER applications is 10 days. *Id.*, p. 5. By waiting until the next-to-last date before the standard of promptness was exceeded, MDHHS's efforts

are consistent with good faith by allowing Petitioner ample time to contact MDHHS. It is appreciated that Petitioner was unable to respond to MDHHS' phone calls due to an absence of phone service but MDHHS is not responsible for a client's availability. Though Petitioner was not purposely uncooperative in the application process, his unavailability rendered him to be appear uncooperative in the application process.

Based on the evidence, MDHHS properly denied Petitioner's SER application. Petitioner should be aware that a denial of SER does not prevent Petitioner from reapplying for SER if assistance is still needed.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's SER application dated July 16, 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



Christian Gardocki

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 (via electronic mail)

Richard Latimore
MDHHS-Wayne-57-Hearings
BSC4
T Bair
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Petitioner (via first class mail)

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