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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: January 17, 2020
MOAHR Docket No.: 19-012581
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 January 8, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Cornelius Bellomy, specialist, and Nicole Carey, supervisor.

ISSUE

The issue is whether MDHHS properly denied Petitioner's State Emergency Relief (SER) application requesting energy services.

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 an unspecified date, Petitioner applied for SER seeking assistance with energy bills.
2. As of Petitioner's application date, Petitioner had neither a checking nor savings account. Petitioner did report to MDHHS that he received employment income on a debit card.

3. On November 6, 2019, MDHHS mailed Petitioner a SER- Verification Checklist (SER-VCL) requesting verification of a savings and checking account.
4. On November 14, 2019, MDHHS denied Petitioner's SER application due to Petitioner's alleged failure to verify savings account, checking account, and real property information.
5. On November 20, 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 the Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute a denial of a SER application seeking assistance with energy services. Exhibit A, pp. 3-4. The date of SER application was not verified during the hearing. A State Emergency Relief Decision Notice dated November 15, 2019, stated that Petitioner's SER application was denied due to a failure to verify information concerning a savings account, a checking account, and real property. Exhibit A, pp. 7-9. MDHHS testimony acknowledged that Petitioner's failure to verify real property information was not a valid basis for SER denial. Thus, only Petitioner's alleged failure to verify checking and savings account information is relevant to the denial of SER.

For all SER services, MDHHS is to verify and count all non-excluded assets of group members with every application. ERM 205 (November 2019) p. 1. Countable cash assets include amounts in bank accounts. *Id.*, p. 2. MDHHS is to verify the amount of cash in bank accounts. *Id.*, p. 6.

MDHHS is to use the DHS-3503, SER Verification Checklist (SER-VCL), to request verification and to notify the client of the due date for returning the verifications. ERM 103 (March 2019) p. 3. The due date to return verifications is at least eight calendar days from the date of SER-VCL mailing. *Id.*, p. 6. MDHHS is to deny the SER application if the group fails to cooperate in returning verification. *Id.* p. 5.

On November 6, 2019, MDHHS mailed Petitioner a SER-VCL requesting verification of a savings and checking account. The SER-VCL gave Petitioner until November 13, 2019, to return verification. MDHHS testified that Petitioner's failure to return savings or checking account documentation by the due date justified denial of SER.

The evidence established that as part of his SER application, Petitioner reported having a debit card attached to his employment income. MDHHS testimony acknowledged that

Petitioner had no checking or savings account which required verification. If a client is not required to verify information, MDHHS cannot take an adverse case action based on a client's failure to verify.

MDHHS' testimony properly acknowledged that SER denial cannot be based on Petitioner's failure to return documentation of the account associated with his employment debit card. The SER-VCL mailed to Petitioner made no reference to a need for Petitioner to return documentation of his employment debit card. The SER-VCL request for verification of a checking and savings account does not equate to a request for verification of an employment debit card. MDHHS cannot justify a denial of SER for a client's failure to return verification when MDHSH fails to give a client notice of the verification request. Also, Petitioner credibly testified that he would have returned verification of his employment debit card account had MDHHS asked for it.

Given the evidence, MDHHS improperly denied Petitioner's SER application. As a remedy, MDHHS will be ordered to reprocess Petitioner's application subject to the finding that the verification request for Petitioner's savings and checking account was improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER application. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's application requesting energy services related to a notice of denial dated November 14, 2019; and
- (2) Reprocess Petitioner's SER application subject to the finding that MDHHS improperly denied the application due to Petitioner's failure to verify a savings and checking account.

The actions taken by MDHHS are **REVERSED**.

CG/cg


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

Via Email:

MDHHS-Wayne-57-Hearings
T. Bair
E. Holzhausen
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

