



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: January 14, 2020
MOAHR Docket No.: 19-012777
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 9, 2020, from Detroit, Michigan. Petitioner was present and represented himself. The Department of Health and Human Services (Department) was represented by Kimberly Polasek, Lead Eligibility Specialist and Alyssa Wyman, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) benefits?

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 an application for SER benefits for assistance with his energy services (Exhibit A, pp. 11-23).
2. On [REDACTED], 2019, the Department attempted to contact Petitioner to complete an interview related to the SER application.
3. On November 1, 2019, the Department sent Petitioner an Appointment Notice informing him that he had a scheduled interview on [REDACTED], 2019, at 9 AM (Exhibit A, p. 9).

4. On [REDACTED], 2019, the Department attempted to contact Petitioner to complete the telephone interview.
5. On November 8, 2019, the Department sent Petitioner an Application Notice informing him that his application for SER was denied (Exhibit A, pp. 7-8).
6. On November 21, 2019 Petitioner submitted a request for hearing disputing the Department's actions.

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 an application for SER benefits on [REDACTED], 2019. On November 1, 2019, the Department sent Petitioner and Appointment Notice informing him that he had a scheduled telephone interview on [REDACTED], 2019, at 9 AM.

All SER applications require an interview with an adult member of the SER group or the authorized representative. ERM 103 (March 029), p. 5. An in-person interview is not required but must be granted upon request. ERM 103, p. 5. At minimum, a phone interview must be completed. ERM 103, p. 5. If an applicant cannot be reached by phone and no interview has been scheduled, the Department must send a DHS-0170, Appointment Notice, to the applicant informing them of the interview requirement. ERM 103, p. 5. The SER standard of promptness is 10 calendar days, beginning with the date that the signed SER application is received by the local office. ERM 103, p. 5. The Department will deny the application if the group does not cooperate. ERM 2013, p. 5.

The Department testified that an initial interview attempt was made on [REDACTED], 2019. However, Petitioner did not answer his phone. As a result, the Department sent Petitioner the Appointment Notice on November 1, 2019, scheduling his interview appointment for [REDACTED], 2019. The Department contacted Petitioner on [REDACTED], 2019, at 9 AM. Petitioner did not answer his phone. Petitioner contacted the Department on [REDACTED], 2019, at 10 AM and left a voicemail. Petitioner's Department worker attempted to return Petitioner's phone call shortly thereafter. Petitioner, again, did not answer. The Department denied the application on November 8, 2019. Petitioner did not contact the Department again until November 12, 2019.

Petitioner testified that he did not receive any of the missed calls or voicemails from the Department. Petitioner stated that he received the Appointment Notice on [REDACTED], 2019, at around 10 AM. Petitioner testified that he contacted his worker immediately and left a voicemail. Petitioner stated that he did not receive a call back.

The Department's testimony that it made numerous attempts to contact Petitioner for the interview was credible. The Department followed policy by sending Petitioner an Appointment Notice and contacting him at the scheduled interview time. The Department made a reasonable effort to contact Petitioner to complete the interview related to the SER application. The Department was unable to reach Petitioner to complete the interview. Therefore, the Department acted in accordance with policy when it denied Petitioner's SER application.

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 acted in accordance with Department policy when it denied Petitioner's SER application. Accordingly, the Department's decision is **AFFIRMED**.

EM/cg



Ellen McLemore

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-Newaygo-Hearings
T. Bair
E. Holzhausen
BSC3- Hearing Decisions
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Petitioner – Via First-Class Mail:

