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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: November 25, 2020
MOAHR Docket No.: 20-005801
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 19, 2020, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Valerie Foley, Hearing Facilitator. Theresa Sharpe, Lead Worker appeared on behalf of the Office of Child Support (OCS).

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In connection with an [REDACTED] 2020 application for Food Assistance Program (FAP) benefits, on June 15, 2020, the OCS sent Petitioner a First Customer Contact Letter instructing him to contact OCS and provide information on the absent parent of his child.
2. On June 25, 2020, the OCS sent Petitioner a Final Customer Contact Letter instructing him to contact OCS and provide information on the absent parent of his child.
3. On July 4, 2020, the OCS sent Petitioner a Noncooperation Notice advising him that he was found to be in noncooperation with child support requirements and

again, instructing him to contact OCS to provide information on the absent parent of his child.

4. On July 4, 2020, the Department placed Petitioner in noncooperation with child support requirements. (Exhibit A, p.14)
5. On July 6, 2020, the Department sent Petitioner a Notice of Case Action advising him that he was ineligible for FAP benefits because he failed to cooperate with child support requirements. Petitioner was instructed to contact the OCS in order to comply with child support requirements.
6. On [REDACTED] 2020, Petitioner submitted an application for SER assistance with electricity services, water/sewage, mortgage, and home repairs. (Exhibit A, pp. 6-10)
7. On August 18, 2020, the Department sent Petitioner a State Emergency Relief Decision Notice (Notice) informing him that his application for SER assistance was denied because he failed to cooperate with child support requirements. The Notice further instructed Petitioner that he was to contact OCS in order to comply with child support requirements. (Exhibit A, pp. 11-13)
8. On August 28, 2020, Petitioner requested a hearing disputing the denial of his SER application. (Exhibit A, pp. 3-4)
9. There was no evidence presented that Petitioner contacted OCS to comply with child support requirements at any point prior to the hearing date.
10. After receiving Petitioner's request for hearing, the OCS reviewed information in its system and determined that the mother of Petitioner's child previously had an open case with OCS and a public assistance case with the Department that had been closed. The OCS was able to retrieve the missing information from the mother's companion case and apply it to Petitioner's. As a courtesy, the OCS removed Petitioner's noncooperation penalty and backdated it to July 4, 2020.

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, the Department testified that Petitioner's [REDACTED] 2020 SER application was denied because as of July 4, 2020, he had been found to be in noncooperation with child support requirements by the OCS.

The custodial parents of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. Absent parents are required to support their children. Support includes **all** of the following: child support, medical support and payment for medical care from any third party. Cooperation is required in all phases of the process to establish paternity and obtain support and includes contacting the support specialist when requested and providing all known information about the absent parent, among other things. BEM 255 (January 2020), pp. 1-2, 9-13. When OCS determines a client is in noncooperation, the Department will generate a notice closing the effective programs or reducing the client benefit amount in response to the determination BEM 255, pp. 1-2. The noncooperation continues until a comply date is determined. BEM 255, pp. 9-13. Additionally, groups that are non-cooperative with the OCS are also ineligible for SER. SER ineligibility continues as long as the group member fails or refuses to pursue potential resources. Sanctioned groups that are able to comply are ineligible for SER until they comply. ERM 203 (October 2018), p. 2.

At the hearing, the OCS representative testified that it sent Petitioner a First Customer Contact Letter, Final Customer Contact Letter, and Non-Cooperation Notice instructing him to contact OCS to provide information on the mother of his child. The OCS representative testified that because Petitioner failed to respond to the requests for information and did not provide any information on the identity of the child's mother, it determined that Petitioner was in noncooperation with child support requirements as of July 4, 2020. The Department testified that because Petitioner was in noncooperation with child support requirements at the time of the [REDACTED] 2020, SER application, he was not eligible for SER and thus, it issued the SER Decision Notice, denying the SER application and instructing Petitioner to contact OCS to comply with the request for information.

Petitioner initially testified that he was unaware that he was found to have been noncooperative with OCS until he received the SER Decision Notice and requested a hearing in response. Petitioner asserted that he did not receive the contact letters from OCS until after he requested a hearing and thus, he was unaware that he was required to contact OCS. However, Petitioner later confirmed receiving the July 6, 2020 Notice of Case Action advising him that he had been found to be in noncooperation with child support requirements, ineligible for FAP benefits and instructing him to contact OCS. The proper mailing and addressing of a letter create a presumption of receipt. That presumption, however, may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). During the hearing, the OCS representative reviewed the contact letters sent to Petitioner and it was established that all were sent to Petitioner's confirmed mailing address. There was no evidence that Petitioner was having problems with receiving

mail at that address and no evidence that the contact letters were returned by the United States Postal Service as undeliverable. Thus, based on the evidence presented at the hearing, Petitioner has not presented sufficient evidence to rebut the presumption that he received the June 15, 2020, June 25, 2020, and July 4, 2020 letters from OCS. Petitioner testified that even if he had received them, there is no absent parent in his household, as he and the mother of his child share joint custody. Petitioner asserted that the OCS should have been able to obtain the information on its own without his assistance.

The OCS representative testified that after receiving Petitioner's request for hearing, it conducted a review of its cases and determined that Petitioner had previously been identified as an absent parent on an OCS and public assistance case for the child's mother a few years ago. The OCS representative testified that because the case for the child's mother was closed, it had no way of retrieving the information in connection with Petitioner's recent request for FAP and SER. Because Petitioner was now identified as the custodial parent of the child, a new case was opened in his name and he was required to provide the requested information himself, to respond to the contact letters, and to cooperate with OCS. The OCS testified that as a courtesy and because the OCS was able to retrieve the missing information, it placed Petitioner in cooperation effective July 4, 2020; however, Petitioner would have to reapply for SER.

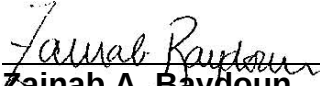
Although after the hearing the OCS entered a July 4, 2020 comply date for Petitioner because it had obtained the information needed, there was no evidence that at any point prior to the hearing, Petitioner contacted OCS to provide any information on the mother of his child. Because Petitioner was in noncooperation with child support requirements at the time the SER application was processed and because Petitioner failed to establish that he provided OCS with the required information, the Department properly denied Petitioner's SER application. Petitioner is informed that he is entitled to submit a new application for SER and have his eligibility determined.

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 application for SER assistance.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

ZB/cc



Zainab A. Baydoun

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-19-Hearings
BSC4-HearingDecisions
E. Holzhausen
T. Bair
MOAHR

Petitioner- Via USPS:

