



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: October 26, 2020
MOAHR Docket No.: 20-005880
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Lain

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 15, 2020, from Lansing, Michigan. The Petitioner was represented by Petitioner, [REDACTED]. The Department of Health and Human Services (Department or Respondent) was represented by Brad Reno, Hearings Facilitator.

ISSUE

Did the Department properly deny 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 [REDACTED] 2020, Petitioner submitted an application requesting Medical Assistance (MA), Food Assistance (FAP), and State Emergency Relief (SER).
2. Petitioner listed Petitioner, her daughter, and two grandchildren as household members.
3. On August 25, 2020, the Department denied Petitioner's SER application because Petitioner's daughter had a Child Support Sanction.
4. On September 1, 2020, a worker completed a telephone interview with Petitioner.
5. On September 14, 2020, Petitioner filed a Request for Hearing to contest the Department's actions.

6. On September 22, 2020, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents from the Department.
7. At some point, Petitioner's daughter and grandchildren moved out of the household and established their own Food Assistance case.
8. On September 22, 2020, the Hearings Facilitator determined that the case had been processed and approved.
9. Petitioner's Food Assistance case was certified and approved in the amount of \$188.00 per month for a FAP group of one person.
10. Petitioner is no longer contesting the Food Assistance Program benefits.
11. Petitioner was subsequently evicted from her home.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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.

Pertinent Department Policy dictates:

State Emergency Relief (SER) assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. Households facing an immediate crisis may also be assisted by the county's Housing Assessment and Resource Agency (HARA).

Accept the decision of the SER group regarding use of the relocation funds authorized. The issuance amount must resolve the group's shelter emergency. Authorize any combination of the following services:

- Moving expenses (to relocate household effects).
- Security deposit (if required).
- First month's rent.
- Rent arrearage.
 - Mobile home lot rent for owners or purchasers is a home ownership service found in ERM 304.
 - Mobile home lot rent for renters is a relocation service covered by this Item. Note: Court costs and fees included in a judgment is an allowable cost for a rent to prevent eviction request.

Authorize relocation services only if one of the following circumstances exists and all other SER criteria are met. Authorize relocation services only if one of the following circumstances exists and all other SER criteria are met.

- The SER group is homeless. For SER means that there is no housing that the group can return to. To be considered homeless, the SER group must meet one of the following criteria:
 - Has a primary night-time residence that is a public or private place not meant for human habitation, (the group is sleeping in a car or on the streets).
 - Is living in an emergency shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels).
 - Is exiting an institution where (s)he has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
- The SER group is at risk of homelessness

Note: Groups who voluntarily left their home, but can return without a threat to their health or safety, are not homeless.

- The SER group meets the eligibility requirements for one of the following homeless assistance programs: Family Re-Housing Program (replaces Rapid Re-Housing Initiative which ended 5/31/2015) effective 10/1/2015. Rural Homeless Permanent Supportive Housing Initiative (RPSH). Note: Update the Living Arrangement screen in Bridges to reflect the appropriate homeless assistance program. ERM 303 pages 1-2

Persons who are homeless; living in an emergency shelter, on the street, in a car or place unfit for human habitation must provide a written observation by an outreach worker, written referral by another service provider, or a written statement from the head of household stating that the SER group is living on the streets. Verification from an outreach worker or service provider must be on official letterhead, signed and dated. Persons eligible for one of the homeless assistance programs listed above must have a written referral by the service provider verifying that the SER group is eligible for the program. The verification must be on agency letterhead with the homeless assistance program identified, signed, and dated. Persons at imminent risk of homelessness must provide a court summons, order or judgment resulting from an eviction action. ERM 303, page 3

Petitioner did not provide proof of a court summons, order, or judgment at the time of application and her housing circumstances have changed since her grandchildren and daughter moved out. Petitioner should file a new SER application because her household group composition has changed.

Petitioner's request for Respondent to take into consideration the fact that she now only has one disabled person in her household is an equitable argument. Petitioner's argument that the policy is incorrect is also an equitable argument to be excused from the Department's policy and SER program requirements. Equity powers are not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Health and Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

Therefore, the Administrative Law Judge finds that the department has established by the necessary, competent, material, and substantial evidence on the record that it was acting in compliance with department policy when it determined that Petitioner's application for SER benefits should be denied based upon the fact that Petitioner's daughter had a Child support Sanction at the time of the application and resided with Petitioner. The Child Support Sanction disqualified the household from receiving benefits. Petitioner would need to file a new application for SER if she is homeless and needs assistance with relocation.

DECISION AND ORDER

Based upon the above findings of fact and conclusions of law, this Administrative Law Judge determines that the Department correctly denied Petitioner's application for SER benefits.

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

It is so **ORDERED**.

LL/ml



Landis Lain

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

Tamara Morris
Genesee (Union St) County DHHS – via
electronic mail

BSC2 – via electronic mail

T. Bair – via electronic mail

E. Holzhausen – via electronic mail

Petitioner

 – via first class mail
MI