



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: January 11, 2021
MOAHR Docket No.: 20-006324
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 December 16, 2020, from [REDACTED]. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Jennifer Smith, Family Independence Specialist.

ISSUE

Did the Department properly process Petitioner's [REDACTED], 2020 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. On or around [REDACTED], 2020, Petitioner submitted an application for SER assistance with water services. (Exhibit A, pp. 8-19)
2. On August 31, 2020, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that the Department approved \$72 towards her \$230 request for assistance with water services. The SER Decision Notice further informs Petitioner that she must make a \$158 income/asset copayment towards her request for assistance and provide proof that her payment has been made prior to September 23, 2020 or the Department would not make its approved payment. (Exhibit A, pp. 21-23)
3. The August 31, 2020 SER Decision Notice informs Petitioner that her total copayment of \$158 resulted from a \$158 income/asset copayment, \$0.00 unmet

required payments (shortfall), \$0.00 prorated amounts, and \$0.00 in contributions from Petitioner or other sources. (Exhibit A, pp. 21-23)

4. The Department testified that because it did not receive proof that Petitioner made her required \$158 copayment by September 23, 2020, it did not make its approved \$72 payment towards Petitioner's request.
5. Petitioner asserted that she made two separate payments (\$110 and \$48) towards her water bill and that she provided the Department with copies of the money orders used. Petitioner further maintained that the Department made its approved payment of \$72. Petitioner presented documentation in support of her testimony. (Exhibit 1)
6. On September 24, 2020, Petitioner requested a hearing disputing the Department's actions with respect to her SER application. Petitioner asserted that her copayment should have been \$0, based on information from the MiBridges website which waived the copayment requirements for SER. Petitioner requested that she be reimbursed for the \$158 copayment she made towards her water bill. (Exhibit A, pp. 3-4)

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.

SER helps to restore or prevent shut off of a utility service, such as water, when service is necessary to prevent serious harm to SER group members. The Department can award payments toward water or sewage up to the fiscal year cap if it will resolve the emergency. The fiscal year cap for assistance with a water bill is \$175.00. ERM 302 (October 2018), pp.1-4.

SER group members must use their available income and cash assets that will help resolve the emergency. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the costs of resolving the emergency. This is the income copayment. In most cases, cash assets in excess of \$15,000 result in an asset copayment. ERM 208 (December 2019), p. 1. If an SER application is made for utilities such as water, a determination of required payments must be made. Required payments are determined based on the group size, group's income, and the obligation to pay for the service that existed during each month

of the six months prior to the application. If the client failed without good cause to make required payments, a shortfall is determined. The client must pay the shortfall amount towards the costs of resolving the emergency. ERM 208, pp. 3-4.

Prior to authorizing the department's portion of the cost of services, verification that the copayment, shortfall and/or contribution has been paid by the client or will be paid by another agency is needed. ERM 302, pp. 2-4. The total copayment is the amount the SER group must pay toward their emergency. ERM 208, pp. 1-2. Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, pp. 1-2. Department policy provides that if the SER group meets all eligibility criteria but has an income or asset copayment, shortfall, and/or contribution, verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made and the client must reapply. If another agency is making the payment, proof that payment will be made is required. ERM 208, pp. 4-6;ERM 103, p. 4.

In this case, Petitioner requested a hearing disputing the Department's actions with respect to her [REDACTED], 2020 SER application requesting assistance with water services. At the hearing, the Department testified that although the Department approved a payment in the amount of \$72 towards Petitioner's request for SER assistance with water, because it did not timely receive verification that Petitioner made her \$158 copayment, it did not make the approved \$72 payment. Relying on Economic Stability Administration (ESA) Memo 2020-17 COVID-19 and SER Changes (ESA Memo) which effective March 30, 2020, eliminated the shortfall determination for any month for energy or utility services, thereby making the required payment amount for electricity, heat, water, and sewer services \$0, the Department representative present for the hearing testified that upon discovery of the ESA Memo, it instructed Petitioner to reapply for SER assistance to have her eligibility redetermined without a copayment.

At the hearing, Petitioner testified that she did make her required \$158 income copayment and despite the Department's assertions otherwise, the Department paid its approved \$72 payment. Petitioner presented documentation in support of her testimony. (Exhibit 1). Petitioner testified that upon learning of the ESA Memo, she requested a hearing seeking reimbursement of the \$158 she paid towards the costs of her SER request with water services, as it should have been waived/eliminated by the Department.

Notwithstanding the Department representative's testimony at the hearing that a shortfall for unmet required payments and income copayments are the same and both covered under the ESA Memo, the policy identified above makes clear distinctions between the two, as it is possible to have both a shortfall and/or an income copayment. Furthermore, the ESA Memo only addresses and eliminates shortfalls for unmet required payments, which Petitioner was not determined to have. A review of the SER Decision Notice clearly indicates that Petitioner was determined responsible for an income copayment of \$158 and a \$0 shortfall for unmet required payments. The Department testified that Petitioner's income copayment was calculated based on her receipt of monthly Family Independence Program (FIP) benefits of \$274 and an

additional \$783 in what was identified to be either Social Security or Supplemental Security Income (SSI).

Therefore, because Petitioner testified that the Department made its approved payment of \$72 and it was established that Petitioner would not have been eligible for a waiver to the income copayment assessed to her SER application as it was not considered a shortfall that was eliminated in accordance with the ESA Memo, Petitioner is not eligible for any reimbursement of the copayment made towards her request for SER assistance with water services. Petitioner did not identify any negative action or hearable issue with respect to her [REDACTED], 2020 SER application.

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 processed Petitioner's SER application.

DECISION AND ORDER

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

ZB/jem



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-31-Grandmont-Hearings
BSC4-HearingDecsions
T. Bair
E. Holzhausen
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]