



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: December 17, 2020
MOAHR Docket No.: 20-006573
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 9, 2020, from Lansing, Michigan. The Petitioner was represented by her relative [REDACTED] [REDACTED]. The Department of Health and Human Services (Department) was represented by Danielle Oshesky Hearing Facilitator. Department Exhibit 1, pp. 1-19 was received and admitted.

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 September 9, 2020, [REDACTED] [REDACTED] applied for State Emergency Relief for burial services on behalf of Petitioner.
2. On September 11, 2020, a verification checklist was sent to Petitioner requesting statement of funeral goods and services and an actual bill or written statement from the provider. Exhibit 1, pp. 8-9.
3. On September 18, 2020, a State Emergency Relief Decision Notice was sent to Petitioner informing her that her application was denied for failing to return verifications. (Ex. 1, pp. 10-12)
4. On September 19, 2020, Petitioner submitted Statement of Funeral Goods and Services. (Ex.1, pp. 13-14)

5. On September 25, 2020, Petitioner requested hearing disputing the denial of SER. (Ex. 1, pp. 15-16)

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.

VERIFICATION

Clients must be informed of all verifications that are required and where to return verifications. The due date is eight calendar days beginning with the date of application. If the application is not processed on the application date, the deadline to return verifications is eight calendar days from the date verification is requested. This does not change the standard of promptness date. Note: When the eighth day falls on a state-observed holiday, the due date for verifications to be returned will be extended to the following business day. Use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. The client must make a reasonable effort to obtain required verifications. The specialist must assist if the applicant needs and requests help. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, use the best available information. If no evidence is available, the specialist must use their best judgment. ERM 103

In this case, Petitioner applied for SER on September 9, 2020. A verification checklist was sent to Petitioner on September 11, 2020, requesting statement of funeral goods and services and an actual bill or written statement from the provider. Department policy states that “if the application is not processed on the application date, the deadline to return verifications is eight calendar day from the date the verification is requested.” Since Petitioner applied for SER before the verification was requested, Petitioner has eight calendar days to return verifications from the date verification was requested which would be September 19, 2020. Petitioner submitted the requested verifications on September 19, 2020 and therefore was timely. The Department’s denial for failure to return verifications was contrary to Department policy. ERM 103

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 did not act in accordance with Department policy when it denied Petitioner’s SER application for failing to return verifications.


DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's SER application going back to the date of application.
2. Award SER benefits if Petitioner is found eligible.

AM/nr



Aaron McClintic
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

Lacy Miller
105 W. Tolles Drive
St. Johns, MI
48879


Clinton 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