



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

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Date Mailed: February 17, 2023  
MOAHR Docket No.: 22-006260  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

**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 hearing was held on February 8, 2023 via teleconference. Petitioner appeared and represented herself. Valarie Foley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

**ISSUES**

1. Did MDHHS properly deny Petitioner's request for State Emergency Relief (SER) services?
2. Did MDHHS properly process Petitioner's reported change regarding the Child Development and Care (CDC) program?

**FINDINGS OF FACT**

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

1. Petitioner was an ongoing recipient of Child Development and Care (CDC) benefits.
2. On or about December 2, 2022, Petitioner sent MDHHS a childcare provider verification, indicating that Petitioner's chosen provider would begin providing services on December 5, 2022.

3. On [REDACTED] 2022, Petitioner applied for SER (Exhibit A, p. 16). MDHHS denied Petitioner's request for SER services because there was no proof of an active emergency.
4. On December 28, 2022, Petitioner filed a Request for Hearing (Exhibit A, p. 3).

### **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).

#### **State Emergency Relief (SER)**

SER is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SER program pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, MDHHS denied Petitioner's application for SER energy services because there was no proof of an emergency. To be eligible for SER, individuals must have an emergency which threatens health or safety and can be resolved through the issuance of SER. ERM 101 (March 2013), p. 1. Low-income households who meet all SER eligibility requirements may receive assistance for household heat and electric costs. ERM 301 (December 2022), p. 1. An energy crisis is evidenced by a past-due account or shut off notice on an energy bill for the applicant's household, a residential fuel tank estimated to contain no more than 25% of its fuel capacity, a stated need for household deliverable fuel or non-traditional fuel source, a notice that the balance of a prepayment account is below \$100.00, or a statement from a licensed service provider indicating that the homeowner's furnace is inoperable and in need of repair or replacement. *Id.*, pp. 1-2.

MDHHS testified that Petitioner applied for SER energy services, but it was unable to confirm with Petitioner's service provider that there was a past due amount or that Petitioner had received a shut-off notice. At the hearing, Petitioner testified that she did not receive a shut-off notice and that she was not aware of a past due bill associated with her residence. Accordingly, Petitioner failed to present any evidence that she was facing an energy crisis, as defined by ERM 301.

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 MDHHS acted in accordance with Department policy when it denied Petitioner's application for SER energy services because there was no evidence of an energy crisis.

### **Child Development and Care (CDC)**

The CDC program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The CDC program is implemented by 45 CFR 98.1-99.33. MDHHS administers the CDC program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, Petitioner was an ongoing recipient of CDC benefits but reported that her current childcare provider had not been paid by MDHHS. Petitioner testified that she submitted the provider's information to MDHHS on or about December 2, 2022 and the provider had not received any payments from MDHHS as of the date of the hearing.

The goal of the CDC program is to support low-income families by providing access to high-quality, affordable and accessible early learning and development opportunities and to assist the family in achieving economic independence and self-sufficiency. BEM 703 (October 2022), p. 1. Parents in the CDC program have the right to choose the type of childcare they wish to use. BEM 704 (October 2022), p. 1. CDC clients are required to report changes in providers or childcare settings within ten calendar days. BAM 220 (October 2022), p. 2. Once MDHHS receives notice of a change, it must act on the change as soon as possible and within the standard of promptness for the program. *Id.* p. 7. MDHHS must act on a reported change by means other than a tape match within 15 workdays after becoming aware of the change. *Id.* MDHHS must also determine the effective date of the change. *Id.*, pp. 9-10.

MDHHS testified that it received Petitioner's provider verification but that it was not processed due to an internal Department error. MDHHS should have acted on the reported change, which in this case was a change in provider, within 15 days of receiving notice. MDHHS should have also determined what the effective date of the change.

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 MDHHS did not follow Department policy when it failed to timely process Petitioner's reported change regarding the CDC program.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **AFFIRMED IN PART** with respect to Petitioner's application for SER services and **REVERSED IN PART** with respect to MDHHS' failure to process Petitioner's reported change regarding the CDC program.

**MDHHS 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. Process Petitioner's reported change of provider, submitted on or about December 2, 2022;
2. Request additional verifications from Petitioner or the provider, if necessary to process the change; and
3. Notify Petitioner of its decision in writing.



LJ/tm

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**Linda Jordan**  
Administrative Law Judge

**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-Electronic Mail :**

**DHHS**  
Susan Noel  
Wayne-Inkster-DHHS  
26355 Michigan Ave  
Inkster, MI 48141  
**MDHHS-Wayne-19-  
Hearings@michigan.gov**

**Interested Parties**  
L. Brewer-Walraven  
K. Schulze  
E. Holzhausen  
BSC4

**Via-First Class Mail :**

**Petitioner**

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