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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

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Date Mailed: March 27, 2018
MAHS Docket No.: 17-016166-RECON
Agency No.: ██████████
Petitioner: ██████████

SUPERVISING ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

DECISION AND ORDER OF RECONSIDERATION

This matter is before the undersigned Supervising Administrative Law Judge pursuant to timely request by the Department of Health and Human Services (Department) for reconsideration of the Hearing Decision issued by the assigned Administrative Law Judge, Amanda Marler, at the conclusion of the hearing conducted on February 5, 2018, and mailed on February 6, 2018, in the above-captioned matter.

The rehearing and reconsideration process is governed by the Michigan Administrative Code, Rule 792.11015, *et seq.*, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program that is the basis for the client's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter having been reviewed, an Order Granting Reconsideration was mailed on March 27, 2018.

ISSUE

Did the ALJ properly conclude that the Department erred in calculating Petitioner's copayment in determining her eligibility for State Emergency Relief (SER) benefits?

FINDINGS OF FACT

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

1. On February 5, 2018, a hearing was held in the above captioned matter resulting in a Hearing Decision mailed on February 6, 2018.
2. The Findings of Fact numbers 1 through 13 in the Hearing Decision are incorporated by reference.

3. On March 7, 2018, the Michigan Administrative Hearing System (MAHS) received the Department's Request for Reconsideration.
4. On March 27, 2018, MAHS granted the request for reconsideration.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and 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.

On [REDACTED], 2017 and [REDACTED], 2017, Petitioner submitted applications to the Department requesting SER assistance with her outstanding electric, water and sewer balance to her provider, the Board of Water and Light (BWL). The Department denied the [REDACTED] 2017 application in an October 4, 2017 SER Denial Notice because Petitioner had an outstanding child support sanction. In a November 8, 2017 SER Decision Notice, the Department agreed to pay \$175 towards Petitioner's water bill upon receipt of verification by November 30, 2017 of her payment of a copayment. Petitioner requested a hearing to challenge her copayment.

At the hearing, the Department explained that Petitioner was not eligible for assistance for the electric portion of her bill because the applications were made during the energy crisis season, but it agreed to make a \$175 payment towards Petitioner's water and sewage bill, the maximum available for such services, after Petitioner verified that she made her copayment of \$1327.79. Although the SER Decision Notice indicates that Petitioner was required to pay \$391.41 towards the water or sewage bill, in the comment section of the Notice, the Department notified Petitioner that she would have to verify payment of \$1,327 before the Department would release its payment. Verification was required by November 30, 2017.

The evidence showed that BWL billed electric, water and sewer together in a single invoice but separately itemized the amount owed for each service. The Department explained at the hearing that, because BWL billed all the services in a single bill, Petitioner would be required to pay all the outstanding balance due to BWL for all services to avoid shut-off of water services. The ALJ concluded that, because the BWL invoice itemized the amounts owing for each of the services, the Department should have excluded the amounts Petitioner owed for electrical services in calculating her copayment amount in the November 8, 2017 SER Decision Notice. The ALJ also ordered the Department to reprocess Petitioner's [REDACTED] 2017 SER application for assistance with the same services.

In its request for reconsideration, the Department does not dispute the ALJ's decision concerning the [REDACTED] 2017 SER application. With respect to the [REDACTED] 2017 application, the Department does not dispute the ALJ's finding that Petitioner was ineligible for SER assistance with the electric bill. However, the Department argues that the ALJ misapplied policy when she required that the Department recalculate Petitioner's copayment using only the amounts she owed to BWL for the water services.

Under Department policy, a condition for SER assistance is that the SER payment must resolve the emergency. ERM 103 (January 2018), p. 3. At the hearing, the Department explained that, although Petitioner owed only \$566.41 towards the water and sewer portion of her BWL bill, the total outstanding bill for electric, water, and sewer was \$1,590.36, and unless the balance for all the services was paid, BWL would shut off Petitioner's water and sewer services. In its request for reconsideration, the Department included a March 5, 2018 email from BWL verifying that payment of only the portion of the BWL bill attributable to the water bill would not avoid shut-off of the water and sewer services for nonpayment. Because shut-off of water services would not be avoided by Petitioner's payment of only a portion of the BWL bill, the emergency would not be resolved if the copayment was recalculated to consider only Petitioner's bill for water and sewer services. There was no evidence presented at the hearing that the required full copayment was verified to the Department by the November 30, 2017 due date.

Because the emergency would not be resolved by payment of only a portion of the BWL bill, the Department has established that the ALJ misapplied manual policy or law in the Hearing Decision when she ordered the Department to recalculate Petitioner's copayment for the [REDACTED] 2017 SER application.

DECISION AND ORDER

Accordingly, the ALJ's decision is **AFFIRMED** with respect to the [REDACTED] 2017 **AND REVERSED** with respect to the [REDACTED] 2017 SER decision.

IT IS ORDERED as follows:

1. The November 8, 2017 SER Decision Notice be reinstated.
2. If not already done, the Department reprocess Petitioner's [REDACTED], 2017 SER application and, if Petitioner is eligible for SER assistance, make payment in accordance with Department policy.



Alice C. Elkin
Supervising Administrative Law Judge
for Nick Lyon, 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 Administrative Hearing System.

DHHS

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Petitioner

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cc: SER-T. Bair; Erich Holzhausen