



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: January 16, 2019
MAHS Docket No.: 18-011622
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 19, 2018, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Karina Littles, Assistance Payment's Worker.

ISSUE

Did the Department properly deny the Petitioner's State Emergency Relief (SER) request for utility assistance due to Petitioner's noncooperation with the Office of Child Support (OCS)?

FINDINGS OF FACT

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

1. The Petitioner applied for SER on [REDACTED], 2018.
2. The Department processed the SER application on October 25, 2018, and denied the application.
3. A SER Decision Notice was sent on October 25, 2018, denying the application due to noncooperation with the OCS. (Exhibit A.)
4. On December 10, 2018, the OCS sent the Department an email advising that the Petitioner was in cooperation with OCS retroactive to September 18, 2017.

5. The Petitioner requested a timely hearing regarding the SER denial on November 8, 2018, protesting the Department's action.

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.

In this case, the Department denied the Petitioner's ██████████, 2018, SER application for utility assistance on October 25, 2018, due to noncooperation with the OCS. (Exhibit A.) The SER Decision Notice referred the Petitioner to contact the OCS. The Petitioner did not present a Notice of Cooperation from OCS to the Department after receiving the Decision Notice denying SER.

At the hearing, the Department presented a Child Support Non-Cooperation Summary which indicated a noncooperation date of November 12, 2015, for Petitioner's daughter ██████████. (Exhibit B.) At the time of the application for SER, the OCS had not corrected their records; and Petitioner remained in noncooperation. The Department emailed the OCS on November 14, 2018, after Petitioner requested a hearing regarding her denial for SER. Thereafter, on December 10, 2018, the Department received an email indicating that OCS had corrected an error and had found the Petitioner in cooperation retroactive to September 18, 2017, which was the OCS compliance date. The OCS corrected its error on November 29, 2018, after the Petitioner's SER application was denied and after the November 8, 2018, hearing request by Petitioner was filed. The emails exchanged between the Department and OCS were not provided. The Department testified based upon its review of the Bridges System records examined by the Department representative during the hearing and also viewed by the Petitioner.

The Department denied the Petitioner's SER application on the basis of her noncooperation with OCS at the time of her application as shown in the Bridges System. ERM 203 confirms that an SER application in noncooperation with OCS is not eligible for SER:

When an SER group member has been denied or terminated assistance for failure to comply, when able, with a procedural requirement of FIP, SDA or SSI, the group is not eligible for SER. Groups that are non-cooperative with the Office of Child Support are also ineligible for SER.

- SER ineligibility continues as long as the group member fails or refuses to pursue potential resources. Sanctioned groups that are able to comply are ineligible for SER until they comply. ERM 203, (October 2018), p. 2.

In addition, Department policy found in BEM 255 governs OCS requirements and provides:

Bridges will **not** restore or reopen benefits for a disqualified member until the client cooperates (as recorded on the child support noncooperation record) or support/paternity action is no longer needed. Bridges will end the noncooperation record if any of the following exist:

- OCS records the comply date.
- Support/paternity action is no longer a factor in the client's eligibility (for example, child leaves the group) (July 1, 2018), p. 15.

In this case the Department properly denied the SER application due to the Petitioner's hearing request received on November 8, 2018, being received after the timely hearing request date. BEM 255 directs:

Bridges applies the support disqualification when a begin date of noncooperation is entered and there is no pending or approved good cause. **The disqualification is not imposed if any of the following occur on or before the timely hearing request date; see BAM 600, Hearings:**

- OCS records the comply date.
- The case closes for another reason.
- The non-cooperative client leaves the group.
- Support/paternity action is no longer a factor in the child's eligibility (for example, the child leaves the group).

Client cooperates with the requirement to return assigned support payments to DHS and the support is certified.

- **Client requests administrative hearing.** BEM 255, pp.11-12.

In this case, the only basis for not imposing the disqualification would be based on the Petitioner requesting an administrative hearing on or before the timely hearing request date.

The timely hearing request date is defined as a request received by the Department within 10 days of the date of the Notice of Case Action was issued.

When the 10th calendar day is a Saturday, Sunday or holiday, or other non-workday, the request is timely if received by the following work day. The date the action is taken is not counted. BAM 600 (October 2018), pp. 25 and 7.


In this case, the SER Decision Notice was dated October 25, 2018. Ten days from October 26, 2018, (first day of Notice not counted) is November 4, 2018, which was a Sunday; thus, the timely notice date would be the next workday, Monday, November 5, 2018. Because the Petitioner's Hearing Request was filed on November 8, 2018, after the timely hearing request date, the Department's disqualification of Petitioner and denial of the SER application for noncooperation with OCS was properly imposed. BEM 255, p. 25.

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 denied the Petitioner's SER application due to noncooperation with OCS and the requirements of BEM 255.

DECISION AND ORDER

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

LMF/



Lynn M. Ferris

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Department Representative

MDHHS-Office of Child Support (OCS)-

DHHS

Richard Latimore
MDHHS-Wayne-57-Hearings

Petitioner

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