



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 18, 2019
MAHS Docket No.: 18-011640
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, an in-person hearing was held on December 19, 2018, from Detroit, Michigan. Petitioner appeared for the hearing with her Authorized Hearing Representatives (AHR) [REDACTED] and [REDACTED] from [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly process Petitioner's August 20, 2018 application for State Emergency Relief (SER) assistance with water?

Did the Department fail to process an October 13, 2018 application for SER assistance with water?

Did the Department properly deny Petitioner's October 22, 2018 application for SER assistance with water?

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 August 20, 2018 Petitioner submitted an application for SER assistance with her outstanding water bill.
2. On August 22, 2018 the Department sent Petitioner a SER Decision Notice (Notice) informing her that the Department approved [REDACTED] towards her request for

assistance with water services. The Notice further informs Petitioner that she must make a [REDACTED] copayment towards her total request for assistance and provide proof that her payment has been made prior to September 18, 2018 or the Department would not make its approved [REDACTED] payment. (Exhibit A)

3. Petitioner did not provide the Department with proof of her required [REDACTED] copayment or that she had a commitment from an outside entity to have the payment made prior to the September 18, 2018 date reflected on the Notice.
4. The Department did not make the approved [REDACTED] payment towards Petitioner's August 20, 2018 request with water services.
5. Petitioner asserted that she submitted a second SER application for assistance with her water service online at the [REDACTED] district office of the Department on October 13, 2018. There was no confirmation number or other documentation to support Petitioner's testimony and the Department did not have any record of an application having been received on that date.
6. On October 22, 2018 Petitioner reapplied for SER assistance with water services.
7. In connection with the new application and because Petitioner had started employment, the Department sent her a SER Verification Checklist (VCL) instructing her to submit proof of her income by October 31, 2018. (Exhibit C)
8. On October 30, 2018 Petitioner emailed her caseworker a copy of her paystub. (Exhibit B, p. 9)
9. The case comments presented by the Department suggest that Petitioner's income was available for verification through the work number. (Exhibit B, p. 12)
10. On October 31, 2018 the Department sent Petitioner a SER Decision Notice, denying her request for assistance with water services because she failed to verify or allow the Department to verify information necessary to determine her eligibility, specifically, her income. (Exhibit B, pp. 13-15)
11. On November 2, 2018 Petitioner requested a hearing disputing the Department's actions with respect to her SER case.

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.

Applicants for SER must complete and sign one of the following applications in order to apply for SER: DHS 1514, Application for SER; MDHHS 1171, Assistance Application and the MDHHS 1171 SER supplemental form; or a MI Bridges online application in which a SER service has been requested. Applicants may file an application for SER in any county in Michigan. Requests for SER become an application on the day the application is received by the Department. For electronic applications submitted through MI Bridges, the application date is based on the date of submission. Applications must be registered within one day of receipt and online applications will be sent electronically to a registration inbox for proper assignment. After processing, the Department is to inform all SER applicants in writing of the decision made on their application by sending a DHS 1419, Decision Notice. ERM 103 (January 2018), pp. 1-8.

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 [REDACTED]. ERM 302 (October 2013), pp.1-4.

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 (October 2015), 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 301, pp. 5-6; ERM 103, p. 4.

Additionally, clients must be informed of all verifications that are required and where to return verifications. The Department will send a SER Verification Checklist (VCL) to request verifications and to notify the client of the due date for returning the 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 verification is eight calendar days from the date verification is requested. This does not change the standard of promptness date. ERM 103, pp. 6-8.

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, pp. 6-8.

August 20, 2018 SER Application

At the hearing, the Department testified that it processed Petitioner's August 20, 2018 request for SER assistance with water service and determined that she was approved for the maximum amount of [REDACTED], based on the fiscal year cap. The Department stated that it did not pay its approved [REDACTED] towards Petitioner's request for assistance with water because it did not receive verification by the September 18, 2018 date indicated on the SER Decision Notice that Petitioner had made her [REDACTED] required copayment or verification that she had a commitment from an outside agency to have her copayment made. (Exhibit A). There was information to suggest that the Department received some information from Petitioner on or around October 11, 2018, however it was after the application eligibility period, and thus too late.

At the hearing, Petitioner and her AHRs asserted that at the time she submitted her August 20, 2018 SER application, she requested that the Department complete a WAVE application on her behalf. The AHR maintained that the Department was required to assist Petitioner with the WAVE application and that she would have been approved for funding through the WAVE program in the amount of [REDACTED] which would have then been applied towards the copayment of [REDACTED]. Although Petitioner and her AHR provided a document identifying the Eligibility Requirements for the WAVE Assistance program, there is no Department policy supporting the AHR's position that the Department was required, per Department policy, to complete the WAVE application on Petitioner's behalf as it is not a program administered by the Department. (Exhibit 1). Additionally, there was no supporting documentation presented that Petitioner would have been guaranteed approval of WAVE assistance in the amount of [REDACTED] as alleged and it was unclear why Petitioner or her AHR did not complete the WAVE application on their own and submit verification of the commitment to pay Petitioner's copayment by the September 18, 2018 date identified on the SER Decision Notice.

Therefore, because there was no evidence presented that Petitioner provided the Department with sufficient verification that her [REDACTED] copayment was made or that she had a commitment from an outside agency to have the copayment made by the September 18, 2018 due date, the Department properly did not make its approved [REDACTED] payment.

October 13, 2018 SER Application

At the hearing, Petitioner maintained that she submitted an online application for SER assistance with water services while she was at the [REDACTED] district office on October 13, 2018. Petitioner testified that she did not receive any decision notice from the Department regarding whether her application was processed, approved or denied. Petitioner's AHR asserted that the Department received the application but failed to process it.

The Department asserted that it had no record of any assistance application submitted by Petitioner on October 13, 2018, so there was no failure to process. The Department thoroughly reviewed its Bridges system during the hearing in an attempt to locate the application alleged to have been submitted online by Petitioner on October 13, 2018 and identified all of the documents/submissions received by Petitioner as they related to the SER program, none of which included a SER application on October 13, 2018. Petitioner did not present a confirmation number or other documentation verifying that she did submit the application on October 13, 2018.

Therefore, upon further review, Petitioner did not establish that the Department failed to process a SER application that she submitted to the Department on October 13, 2018.

October 22, 2018 SER Application

In this case, the Department testified that because it did not receive the requested verification of Petitioner's income by the October 31, 2018 due date reflected on the SER VCL, it sent Petitioner the SER Decision Notice dated October 31, 2018 denying her request for SER assistance with water services. (Exhibit B, pp. 13-15; Exhibit C). There was evidence presented that Petitioner submitted a paystub to her case worker on October 30, 2018 via email, however, the Department testified it was not considered because the case worker could not read it as it was illegible as an email attachment. A review of the Case Comments Summary presented by the Department indicates that Petitioner's recent income and employment may be on the Work Number, which is an electronic data exchange that the Department can access and consider for income verifications in SER cases. ERM 206 (February 2017), pp. 6-7.

Therefore, upon review, Petitioner made a reasonable effort to provide the Department with requested income verifications prior to the October 31, 2018 and did not otherwise indicate a refusal to provide the verifications. Additionally, the Department could have relied upon the best available information, which in this case could have been the income information from the Work Number.

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 October 22, 2018 SER application for assistance with water services.

DECISION AND ORDER


Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the August 20, 2018 and October 13, 2018 SER Applications and **REVERSED IN PART** with respect to October 22, 2018 SER Application.

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. Reregister and process Petitioner's October 22, 2018 SER Application for assistance with water services to determine her eligibility for SER;
2. Issue supplements to Petitioner and/or her utility provider for any SER benefits Petitioner was eligible to receive but did not; and
3. Notify Petitioner and her AHR in writing of its decision.

ZB/tlf



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 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

Via Email:

[REDACTED]

Petitioner

- **Via First-Class Mail:**

[REDACTED]

Authorized Hearing Reps.

- **Via First-Class Mail:**

[REDACTED]