



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: March 11, 2019
MAHS Docket No.: 18-013379
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 February 28, 2019, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Valerie Foley, Hearing Facilitator.

ISSUE

1. Did the Department properly deny the Petitioner's application for State Emergency Relief (SER) for energy services assistance with heat and electricity?
2. Did the Department receive an application for Direct Support Services for car insurance assistance?

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 Department had no record in its electronic case file for Petitioner of receiving an application for Direct Support Services (DSS) from Petitioner. Petitioner did not present proof of her application; therefore, the Petitioner's hearing request is Dismissed as the Department had no application that it was required to process. (Exhibit F.)
2. Petitioner applied on November 27, 2018, for SER for energy services assistance with her electricity service \$ [REDACTED] and heat \$ [REDACTED] (Petitioner Exhibit A.)

3. On December 3, 2018, the Department denied the Petitioner's application for SER due to the Petitioner's failure to pay her shortfall amount of required energy services payments. (Exhibit D.)
4. The Department found that Petitioner had eight group members in her SER group, including her husband who she said was not living in her household in December 2018. Petitioner, on her application, listed a group of seven persons, including herself. Petitioner listed six children living with her in her group at application and listed them on the application.
5. Petitioner's daughter was working for [REDACTED] at the time of the application earning approximately \$ [REDACTED] monthly. In addition, Petitioner's daughter, [REDACTED] receives Supplemental Security Income (SSI) in the amount of \$ [REDACTED] a month; and Petitioner receives \$ [REDACTED] a month as a home help provider. In addition, she pays \$ [REDACTED] in child support. Petitioner's husband, [REDACTED], also receives SSI in the amount of \$ [REDACTED]
6. The Department used the following income for Petitioner when determining SER eligibility, \$ [REDACTED] earned income and \$ [REDACTED] SSI income. The Department did not include Petitioner's daughter's income of \$ [REDACTED] and counted her husband's SSI of \$ [REDACTED] or Petitioner's Child Support payment of \$ [REDACTED]. The final total co-payment income was \$ [REDACTED] (Exhibit B.)
7. The Department determined the SER unmet need to be \$0 based upon based on a final shortfall of \$ [REDACTED]
8. Petitioner filed an application for cash assistance on October 23, 2018; and her husband, [REDACTED], was listed on the application. (Exhibit C.) In addition, the Petitioner's husband is included in her FAP group. (Exhibit D.)
9. Petitioner sought assistance for her electrical bill and heat bill for a total of \$ [REDACTED] at the time of application.
10. The Petitioner had made no payments on her electrical bill for six months, beginning May 2018 through October 2018.
11. The Petitioner requested a timely hearing on December 18, 2018.

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.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

In this case, the Petitioner sought a hearing regarding a Direct Support Service application she filed to assist with insurance for her car. No such application was found to exist by the Department in its electronic case file. The Petitioner also did not provide any copy of the DSS application at the hearing; thus, it is determined that there was no application for DSS and thus the Department had no application which it failed to process.

The Petitioner also applied for SER assistance for energy services to assist with her heat and electric bill. SER policy provides:

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP).

A household may receive one SER payment for heat and one for non-heat electricity, up to the SER cap, each fiscal year. ERM 301 (March 2019) p. 1.

At the time of the SER application, Petitioner's application stated she had a shut-off notice. When applying for SER, incomes of all household members are included; and all household members are in the group. The assets of all household members are also included. Income verification based on current eligibility for any other Department program may be used if available. If the household income is at or below LIHEAP, there is no income copayment, which was the case in this case. Before the Department can make a SER payment, the Department must verify that any required copayments have been paid. ERM 301, p. 8.

The energy services required payment period reviewed by the Department is the six-month period prior to the month the SER group applies for assistance; so, the period began in May 2018. In this case, the period was from May 2018 through October 2018. (Exhibit E.) The energy required payments are met if the amounts paid by the group for heating and or electricity equal or exceed the table amount for the required payment period. ERM 301, p. 8. The monthly required energy payments are based upon group size and for a group of eight persons is \$197. ERM 301, p. 9. If the energy payments have not been met based on the information in Bridges, good cause for nonpayment may exist. Failure to make required payments without good cause may result in shortfall, which will be required to be paid before any SER assistance can be paid by

the Department. The shortfall is required to be paid, and payment must be made within 30 days beginning with the application date. The shortfall cannot be waived.

For energy services, there are no income copayments required to be made by applicants. ERM 208 (March 2019), p.1. In this case, the LIHEAP limit for a group of eight is \$5,298; and thus, the Petitioner was income eligible for SER. ERM 208, p. 6. However, based upon the application for energy services for heat and electricity, a determination of required energy payments and whether they were made must be made. Required payments are determined based upon group size, group income and the obligation to pay for the services that existed during each month of the six months prior to the application. In this case, the Petitioner did receive one month of good cause when the group net income in September 2018 of \$[REDACTED] was less than the \$[REDACTED] good cause amount; and thus, no payment for energy payment was required for that month.

Good Cause requirements are found in ERM 204. SER does not assist a group who failed to use their available money to prevent a shelter, energy or utility emergency. A client-caused emergency is when the group fails to pay required payments for the six-month period. As stated above, the required group monthly energy payment was determined to be \$[REDACTED] monthly based on a group of eight. Good cause exists if the SER group's net countable income from all sources during each month the group failed to pay their obligations was less than the amount shown for the SER group size in the good cause table and must include income of people who were in the group during the required payment period. ERM 204 (February 2017), pp. 2-3. Based upon the table, the good cause amount for a group of eight is \$[REDACTED] which was the amount the Department determined and is correct. (Exhibit E.) In this case, the net countable income was determined to be \$[REDACTED] for May 2018 through August 2018 and \$[REDACTED] for September 2018 and \$[REDACTED] for October 2018. Good cause was met only for September 2018 because the income was less than the \$[REDACTED] good cause amount, so the actual obligation of \$[REDACTED] for September was not included in the shortfall payment the Petitioner was required to make. (Exhibit E.) In all the other months, the group income exceeded the \$[REDACTED] good cause amount; and thus, the \$[REDACTED] energy payment was required to be made by the group for those months. The Department also reduced the group size for September and October to a group size of seven.

Because the Petitioner failed to make the actual required energy payment obligation of \$[REDACTED] per month for the months of May 2018, June 2018, July 2018, and August 2018 and October 2018, which was \$[REDACTED] (due to group size reduction in that month), the Petitioner's total shortfall she had to pay was \$[REDACTED] which as determined by the Department is correct. Because the shortfall was not paid by the Petitioner within the 30 days after the November 27, 2018, application, the Department had no obligation to pay the request SER. In addition, the shortfall of \$[REDACTED] exceeded the amount owed by Petitioner of \$[REDACTED] for energy services.

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 SER application due to failure to make the shortfall payments.

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 Petitioner failed to establish that a DSS application was made; and thus, there was no application to be processed by the Department.

DECISION AND ORDER

Accordingly, the Department's decision with respect to denial of SER energy services is **AFFIRMED**.

The Petitioner's hearing request December 18, 2018 regarding failure of the Department to process a Direct Support Services application is **DISMISSED**.

LMF/jaf



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

DHHS

Susan Noel
MDHHS-Wayne-19-Hearings

Petitioner

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