



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: April 19, 2019
MAHS Docket No.: 19-001151
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 March 20, 2019, from Detroit, Michigan. The Petitioner was represented by herself. An Arabic translator, [REDACTED] also appeared to translate for the Petitioner. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Worker.

ISSUE

Did the Department properly deny the Petitioner's State Emergency Relief (SER) application for heat and electricity energy 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. On January 8, 2019 Petitioner applied for SER for assistance with her heat and electricity bills. Exhibit B
2. On January 29, 2019 the Department issued a SER Decision Notice state that the group did not meet program requirements. Exhibit C
3. The Department sent a Verification Checklist to the Petitioner on January 29, 2019 with the proofs due by February 8, 2019 requesting a current statement from a bank or financial institution DHS 20 verification of Assets. This VCL was sent regarding Food Assistance. Exhibit A

4. The Department's Hearing Summary alleged that Petitioner was asked to provide bank account for SSI income for her Child and to provide home help care income for the last 6 months. No verification checklist was sent to Petitioner regarding the alleged requests to support the SER application.
5. The Petitioner submitted the bank statement and did not submit home help care income for the last 6 months.
6. Petitioner requested a timely hearing regarding the denial of SER on February 4, 2019 protesting the Department's actions.

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 application for SER for assistance with her heat and electric bill obligations due to Petitioner's alleged failure to provide proof of income she received from providing home help care.

Department eligible clients may request assistance with heat and electricity obligations:

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 (February 2019), p. 1.

When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. The amount of the payment is the minimum necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. Current bills that are not subject to shutoff should not be included in the amount needed. ERM 301 (February 2019), p. 3-4

The SER Decision Notice sent to the Petitioner did not state the reason for the denial. Exhibit C. The Department received the Petitioner's SER application on January 8, 2019 and did not process the application within 10 days a required by Department policy. ERM103 (February 2019), p. 5. The Department did not provide the Petitioner a request for verification by sending a Verification Checklist requesting the Petitioner provide proof of assets by providing current bank account information and home help income. In addition, there was no written request that Petitioner provide the Department the last 6 months of income received from providing home help services. It appears the Department relied at the hearing on a VCL sent on January 29, 2019 to substantiate a proper request for information. The VCL information for bank statement was due February 8, 2019 was sent on the same day the Department denied the Petitioner's SER application on January 29, 2019 and the VCL did not ask that home help income for the last six months be provided. The Department did not meet its burden of proof to show that it properly processed the application and did not provide the Petitioner with a VCL when requesting information.

Department policy requires:

Verification is usually required at application/redetermination **and** for a reported change affecting eligibility or benefit level.

If the individual indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits, offer to assist the individual in the gathering of such information. BAM 130 (April 2017), p. 1. ERM 102 (October 2018), p. 1-2.

In obtaining verifications when required the Department must tell the client what verification is required, how to obtain it and the due date; Use the DHS 3503, verification checklist to request verification. BEM 130, p. 3.

ERM 103, p. 5 provides that the Department is to pend the application if the client is cooperating. Here the Petitioner on short notice filed a bank account statement and thus the application should have been pended due to no evidence that a VCL was ever sent.

The Department is required to do the following when processing a SER application:

Clients must be informed of all verifications that are required and where to return 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 verifications is eight calendar days from the date verification is requested. This does not change the standard of promptness date.

Note: When the eighth day falls on a state-observed holiday, the due date for verifications to be returned will be extended to the following business day.

Use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications.

The client must make a reasonable effort to obtain required verifications. ERM 103, p.6.

Given the evidence presented at the hearing it is clear the Department did not meet its burden of proof to demonstrate that it complied with Department policy regarding requesting and seeking verifications in order to determine Petitioner's eligibility for SER assistance for heat and electricity 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 did not act in accordance with Department policy when it denied Petitioner's January 8, 2019 application for SER and failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the application without ever providing the Petitioner a verification checklist as required by Department policy.

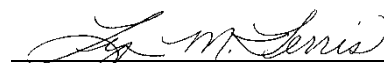
DECISION AND ORDER

Accordingly, the Department's decision is

REVERSED.

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. The Department shall re-register the Petitioner's January 8, 2019 application for SER for heat and electricity and process the application, complete verification and determine eligibility.
2. The Department shall provide Petitioner a written notice of its determination.



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

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

cc:

[REDACTED]
[REDACTED]