



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

ORLENE HAWKS
DIRECTOR

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Date Mailed: June 25, 2019
MOAHR Docket No.: 19-004140
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 May 29, 2019, from Detroit, Michigan. [REDACTED], Petitioner's daughter-in-law, testified and appeared as Petitioner's authorized hearing representative (AHR). The Michigan Department of Health and Human Services (MDHHS) was represented by Keela Morris, specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER) for burial expenses.

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 9, 2019, Petitioner's AHR applied for SER seeking an unspecified amount of burial expenses for Petitioner's funeral. Petitioner's application reported that Petitioner had a checking account. Petitioner AHR reported herself as Petitioner's authorized representative as well as a mailing address separate from Petitioner's address. Exhibit A, pp. 2-15.
2. On January 9, 2019, MDHHS mailed a Verification Checklist (VCL) to Petitioner's and Petitioner's AHR's addresses. The VCL requested documentation of Petitioner's checking account. Exhibit A, p. 16. The VCLs were properly addressed but both were sent to Petitioner's address.

3. On January 18, 2019, MDHHS denied Petitioner's SER due to a failure to verify Petitioner's checking account. Exhibit A, p. 18.
4. On January 25, 2019, MDHHS received Petitioner's checking account documentation. Exhibit A, p. 17.
5. On April 8, 2019, Petitioner's AHR requested a hearing to dispute the denial of SER.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and Emergency Relief Manual (ERM).

Petitioner's AHR requested a hearing to dispute a SER denial related to Petitioner's burial expenses. A SER Decision Notice dated January 18, 2019, stated that Petitioner's SER application was denied due to a failure to verify a checking account.

Authorized representatives (ARs) may apply on behalf of a person who is deceased, physically or mentally disabled, or a minor. ERM 103 (October 2018), p. 1. A signed application from an authorized representative establishes the same rights and responsibilities for the AR as the client would have.

MDHHS is to verify and count all non-excluded assets of SER group members with every application. ERM 205 (October 2015), p. 1. MDHHS is to use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103 (October 2018), p. 6. Clients must be informed of all verifications that are required and where to return verifications. *Id.* The due date is eight calendar days beginning with the date of application. *Id.* MDHHS is to deny the application if the client does not cooperate in returning verifications. *Id.*, p. 5.

As an authorized representative on Petitioner's application, Petitioner's AHR is entitled to have received a VCL. MDHHS claimed that a VCL was properly mailed to Petitioner's AR/AHR giving a due date of January 16, 2019, to return verification of Petitioner's checking account. MDHHS' claim was consistent with a VCL listing Petitioner's representative's proper address. Exhibit A, p. 16. After not hearing from Petitioner's AR/AHR, MDHHS denied the application on January 18, 2019, and mailed notice to Petitioner's AR/AHR. The only dispute concerned whether MDHHS properly mailed Petitioner's AR/AHR the VCL.

Petitioner's AR/AHR testified that she did not receive the VCL until January 25, 2019, because the VCL addressed to her was enclosed in an envelope that was addressed to Petitioner. Thus, Petitioner's AR/AHR claims that MDHHS did not mail a VCL to her and mailed two VCLs to Petitioner's address. Petitioner's AHR's testimony was consistent with a written statement submitted before the hearing.¹ Petitioner's AR/AHR also took photos of the envelope allegedly sent to Petitioner's address which held both VCLs.²

MDHHS is known to use a computerized system of mailing which is reliable enough that the specialist testified that she has never experienced a complaint of a document being submitted in an envelope sent to the wrong person.

The MDHHS mailing system may be reliable but it is doubtful that it is infallible. Petitioner's AR/AHR's testimony was not definitively corroborated but the consistency between her testimony and written statement bolstered her credibility. Further, Petitioner's AR/AHR's submission of Petitioner's checking account on January 25, 2019, was consistent with a fast turnaround time of submitting verification after allegedly first learning of the need for verification on the same date. It is also notable is that MDHHS limits receipt of SER applications within 10 days of burial; thus, Petitioner's AR/AHR cannot simply reapply for burial assistance as Petitioner's burial has presumably long passed.

Given the evidence, it is found that MDHHS improperly failed to mail a VCL to Petitioner's AR/AHR. Thus, the denial of SER due to a failure to verify information requested on the VCL was improper.

¹ Petitioner's AR/AHR's written statement was not admitted as an exhibit but was recognized as being consistent with testimony.

² Again, the document was not admitted as an exhibit though the photo provided little insight as to what documents were in the envelopes when MDHHS mailed the VCLs.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly mailed Petitioner's AR/AHR a VCL requesting checking account information. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Register Petitioner's SER application dated January 9, 2019, requesting burial services; and
- (2) Process Petitioner's application subject to the finding that MDHHS failed to properly mail a request to Petitioner's authorized representative requesting Petitioner's assets.

The actions taken by MDHHS are **REVERSED**.

CG/jaf



Christian Gardocki

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 Office of Administrative Hearings and Rules (MOAHR).

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

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

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

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

DHHS

Lori Duda
MDHHS-Oakland-2-Hearings

Petitioner

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

Authorized Hearing Rep.

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

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