



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: July 1, 2019
MOAHR Docket No.: 19-005289
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 June 27, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Mark Boyd, Family Independence Manager.

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) home repairs?

FINDINGS OF FACT

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

1. Petitioner submitted an application for SER home repairs for her exterior doors and three windows in addition to two quotes for the repairs.
2. On May 10, 2019, the Department issued a State Emergency Relief Decision Notice informing Petitioner that her application for SER home repairs was denied because the service requested was not covered by policy.
3. On May 20, 2019, the Department received Petitioner's request for hearing disputing the Department's decision to deny Petitioner's SER Application for home repairs.

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, Petitioner's application for SER home repairs was denied because the requested items were not covered by policy. SER assists applicants with safe, decent, affordable housing, and other essential needs when an emergency situation arises. ERM 101 (March 2013), p. 1. To be eligible for SER, all applications must:

- Complete the application process
- Meet financial and non-financial requirements
- Have an emergency which threatens health or safety and can be resolved through issuance of SER
- Take action within their ability to help themselves
- Not have caused the emergency (ERM 204)-property tax and home repair SER services are exempted from this provision
- Cooperate in providing information about income, assets, living arrangements, and other persons living in the home.

ERM 304, pp. 3-4. Services are denied for applicants who do not meet these requirements. *Id.* Non-energy-related repairs include all home repairs for client owned housing except furnace repair and replacement including:

- Repairs to the structure of the home
- Hot water heater
- Septic/waste disposal system
- Doors/windows
- Extermination services
- Electrical
- Plumbing
- Roofs
- Wells/water supply system
- Wheelchair ramps.

ERM 304 (October 2018), p. 3. All repairs must restore the home to a safe, livable condition. *Id.* SER does not pay for improvements or nonessential repairs. ERM 3404, p. 4. The lifetime maximum for non-energy-related home repairs is \$1,500.00 per SER group. ERM 304, p. 3.

Petitioner's two areas for which she requested SER assistance are with her exterior doors and her windows. Petitioner requested assistance with the doors because when the doors were originally installed and hung at her home, the doors were installed improperly such that the door can be pushed open with little force. Petitioner requested assistance with the windows because one of the windows has had a cantaloupe size hole in the window for approximately one year. She requested the repair of three windows because the window with the hole is part of a bay window.

At the hearing, the parties disputed whether these were covered services. The Department argued that because the problem with the doors was caused based upon their initial installation, Petitioner should have had the problem fixed when it occurred. Since the client-caused emergency rule does not apply to home repairs, the fact that the problem has existed for a period and could have been resolved at the time of installation is irrelevant to determining Petitioner's eligibility for services. The Department also argued that Petitioner requested the repair of three windows, but only one window was broken. Petitioner justified the request because the three windows comprise a bay window and cannot be done separately. Petitioner did not argue that the three windows were originally framed as one and could only be replaced as either all or none. She only argued that the three windows created a bay window and needed to be replaced together. A review of the estimate for cost of services shows that Petitioner was seeking to have two double hung casement windows hung in addition to a picture window. Since three windows were quoted, each of these has its own framing and is a separate window. Petitioner is not entitled to the repair or replacement of any accompanying windows, only the window that is broken. Therefore, the Department was only partially correct in its decision to deny window repairs because only two of the windows were being improved or would be considered nonessential repairs, the third had a large hole and needed to be replaced.

During the hearing, the issue was raised as to Petitioner's income and asset eligibility for SER assistance. Since the Department did not address Petitioner's income or asset eligibility on its State Emergency Relief Decision Notice, those issues will not be addressed here. However, the parties should note that income eligibility is governed by ERM 206 (February 2017) and sets a need standard of \$445.00 for a group size of one on page 6 and asset eligibility is governed by ERM 205 (October 2015) and sets a protected asset limit of \$50.00 on page 1.

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 application for SER Home Repairs for her doors and window.

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. Reprocess Petitioner's SER application to determine eligibility for home repairs to her doors and the broken window; and,
2. Notify Petitioner in writing of its decision.



AMTM/jaf

Amanda M. T. Marler
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

Richard Latimore
MDHHS-Wayne-57-Hearings

Petitioner

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