



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: October 15, 2019  
MOAHR Docket No.: 19-009032  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: John Markey**

### **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 October 10, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Juanita Munoz, Hearings Facilitator. During the hearing, a 32-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-32.

### **ISSUE**

Did the Department properly process Petitioner's July 3, 2019 State Emergency Relief (SER) application?

Did the Department properly process Petitioner's August 18, 2019 SER application?

### **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 [REDACTED] 2019, Petitioner submitted to the Department an application for SER benefits for assistance with paying her DTE heat and electric bills. Exhibit A, pp. 6-10.
2. On July 10, 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that she was eligible for SER benefits. Petitioner was required to pay a co-payment of \$997.62 and provide the Department with proof thereof by August 1, 2019. Once the Department received

proof of co-payment, the Department was to pay the remaining \$1,447.45. Exhibit A, pp. 11-12.

3. On August 1, 2019, Petitioner paid to DTE \$535. Exhibit A, p. 13.
4. Because Petitioner did not make the required co-payment, the Department did not issue to DTE its portion of the bill.
5. On [REDACTED], 2019, Petitioner submitted to the Department another application for SER benefits for assistance with paying the DTE heat and electric bills. Exhibit A, pp. 14-18.
6. On August 8, 2019, the Department issued to Petitioner an Appointment Notice informing Petitioner that she would be contacted via telephone by her case worker on August 15, 2019 at 9:30 am to conduct an interview. Exhibit A, pp. 26-27.
7. On August 16, 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that her August 8, 2019 SER application was denied. The reason given was that Petitioner allegedly “failed to verify or allow the department to verify information necessary to determine eligibility for this program.” Exhibit A, pp. 31-32.
8. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to 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, Petitioner objects to the Department’s actions with respect to two SER applications Petitioner filed, one on [REDACTED], 2019 and the other on [REDACTED], 2019. Both of the applications requested assistance paying for two separate energy services, natural gas and electric. The [REDACTED], 2019 application was initially approved. However, the Department did not dispense the benefits because Petitioner did not pay the required co-payment to DTE by the deadline. The [REDACTED], 2019 application was denied because Petitioner allegedly failed to verify an eligibility related factor. During the hearing, the Department representative clarified that the denial was based on Petitioner’s failure to participate in the August 15, 2019 interview.

## 2019 APPLICATION

Petitioner applied for assistance with paying two energy bills that were past due. Both services had active shutoff notices issued. One was for electric service and the other was for natural gas. Petitioner's past due balance for the electric bill was \$597.45, and the past due balance for the natural gas bill was \$1,847.62. Petitioner's monthly income consisted of unearned income totaling \$864.

On July 10, 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice finding Petitioner eligible for SER assistance to pay each of the two bills. For the electric bill, the Department informed Petitioner that "DHS PAYS" \$597.45 and "YOUR PAYMENT" was \$0.00. For the natural gas bill, the Department informed Petitioner that "DHS PAYS" \$850.00 and "YOUR PAYMENT" was \$997.62. The document then states that Petitioner's "total copayment is \$997.62." The document further states that "No DHS payment(s) will be made for any service(s) until you provide proof that you made your payment(s) shown above. If verification of your payment(s) is not returned by 08/01/2019 the DHS payment(s) will not be made and you will need to reapply."

Petitioner did not make the required natural gas amount listed under the "YOUR PAYMENT" section applicable to that service. Because of Petitioner's failure to make the entire \$997.62 payment, the Department refused to pay for either of the bills.

An SER payment can only be authorized if the SER payment will resolve the emergency. ERM 208 (June 2019), p. 1. 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. The SER cap for each service is \$850. ERM 301, p. 12. If the SER maximum does not resolve the emergency, the client must contribute towards the cost of resolving the emergency. ERM 208, p. 3. Verification that the contribution has been paid must be received before any SER payment can be made. ERM 208, p. 3. Before authorizing the Department's portion of the cost of services, the Department must verify that the copayment, shortfall, and contribution have been paid by the client or will be paid by another agency. ERM 208, p. 5.

There are no income copayments for SER energy services. ERM 208, p. 1. With respect to income, clients are either eligible or they are not. ERM 208, p. 1. For a group to be income eligible, the group's monthly income cannot exceed the standard for SER energy services, which for a group of one is \$1,518. ERM 208, pp. 1, 6. If the income exceeds the limit, the request must be denied. ERM 208, p. 1.

In this case, Petitioner requested SER benefits to assist in resolving two emergencies. One was the potential shutoff of electric services. The other was the potential shutoff of natural gas services. Petitioner was correctly found eligible for those services. However, the Department did not properly process the case after that.

With respect to the natural gas bill, the Department properly withheld payment as Petitioner did not make the required contribution. The SER cap for that service was \$850, and Petitioner's past due amount was \$1,847.62. Thus, in order to authorize payment of the Department's \$850, Petitioner was required to verify to the Department that she paid the shortfall of \$997.62. Petitioner failed to do so. Thus, the Department properly refused to pay Petitioner's natural gas bill.

However, according to the State Emergency Relief Decision Notice, Petitioner's required payment for the electric bill was \$0 while the Department was due to pay \$597.45. The Department wrongfully refused to pay its portion due to a finding that Petitioner did not fulfill her supposed duty to pay her contribution. However, Petitioner did not have any contribution with respect to that emergency. The contribution was applicable to the natural gas bill, which was a separate emergency. The limit for electric service was \$850, and the outstanding balance was less than \$850. As Petitioner was income eligible, she was not responsible for any contribution amount. The Department failed to follow Department policy in refusing to pay its portion of that bill.

#### **██████████, 2019 APPLICATION**

On ██████████ 2019, Petitioner submitted another SER application for assistance with the same two bills. That application was denied after Petitioner allegedly failed to participate in a required interview.

All SER applications require an interview with an adult member of the SER group, which can be either in person or over the telephone. ERM 103 (March 2019), p. 5.

At the hearing, the Department witness testified that once Petitioner missed the phone call, the Department was required to issue the denial. However, at that point, Petitioner had not failed to cooperate in any meaningful way. In fact, Petitioner credibly stated that she did not receive a call at the scheduled time and repeatedly attempted to contact the Department after not receiving the call, all to no avail. The Department witness countered by saying that a call was made. However, the witness was not the one who allegedly made the call, and nonetheless, she was unable to testify with any confidence as to when the alleged call was purportedly placed. In such circumstances, Petitioner's credible testimony outweighs the contrary unsure hearsay testimony of the Department witness.

The following day, the denial letter was issued. Based on the record presented, the Department denied the application due to Petitioner's failure to do something she was ready, willing and able to do. That failure was attributable to the Department's failure to contact Petitioner in the manner it was supposed to or return any of Petitioner's repeated calls. In this case, Petitioner was cooperating within her ability, and consequently, the application should have been pended as opposed to denied.

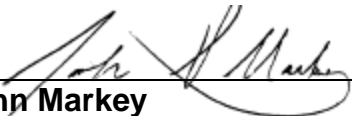
**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** and **REVERSED IN PART**. The Department properly refused to authorize the \$850 to be paid for Petitioner's natural gas bill. However, the Department improperly refused to authorize the \$597.45 to be paid for Petitioner's electric bill. Additionally, the Department improperly denied Petitioner's August 8, 2019 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. Issue SER funds to pay Petitioner's electric bill, as detailed in the July 10, 2019 State Emergency Relief Decision Notice;
2. Reprocess Petitioner's [REDACTED] 2019 SER application;
3. Determine Petitioner's eligibility for the remaining service requested on the [REDACTED] 2019 SER application; and
4. Notify Petitioner in writing of its decisions.

JM/cg

  
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**John Markey**  
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

**Via Email:**

MDHHS-Wayne-41-Hearings  
T. Bair  
E. Holzhausen  
BSC4- Hearing Decisions  
MOAHR

**Petitioner – Via First-Class Mail:**

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