



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: November 12, 2019
MOAHR Docket No.: 19-010568
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 November 7, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator. During the hearing, a 14-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-14.

ISSUE

Did the Department properly process Petitioner's July 18, 2019 application for State Emergency Relief (SER) assistance in paying her heat and non-heat electric bills?

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 assistance in paying her non-heat electric and heating bills from DTE. Exhibit A, pp. 8-14.
2. On July 19, 2019, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that she was approved for SER assistance. The document informed Petitioner that she was approved for \$193.73 to be applied to her non-heat electric bill and that she had no copay for that service. The document further informed Petitioner that she was approved for \$155.52 to be applied to her heat bill and that she had a \$70 copay for that service. Petitioner

was directed to pay the copay and provide proof of the payment to the Department by August 16, 2019. The document stated that no funds would be dispensed by the Department until it received proof of the copayment.

3. On July 30, 2019, Petitioner made the required payment to DTE.
4. On July 31, 2019, Petitioner submitted to the Department proof that she made the required \$70 copayment.
5. The Department did not properly process Petitioner's submission and seemingly ignored it.
6. Despite receiving proof of the copayment, the Department never dispensed the approved SER funds to DTE.
7. On [REDACTED] 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's refusal to issue the approved SER funds upon receiving proof that Petitioner paid the copayment.

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 her [REDACTED] 2019 SER application requesting assistance paying for two separate energy services, non-heat electric and heat. The [REDACTED] 2019 application was initially approved. However, the Department did not dispense the benefits because it determined that Petitioner did not pay the required copayment by the deadline of August 16, 2019, despite Petitioner providing proof of the payment on July 31, 2019.

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. For some SER services, asset and/or income copayments may be required. ERM 302 (October 2018) p. 1. Verification that the necessary copayment has been paid must be received before any SER payment can be made. ERM 208, p. 5. 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.

The Department provisionally approved Petitioner's SER application upon one condition. The condition was in order to have the Department dispense any funds to DTE, Petitioner had to pay to DTE a \$70 copayment and provide proof of the same to the Department by August 16, 2019. Petitioner fulfilled that condition on July 31, 2019. For some reason, the Department failed to process Petitioner's proofs that she submitted that day. The Department acknowledged at the hearing that Petitioner met her obligations and that the Department should have paid out the SER funds at that time.

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 processed Petitioner's [REDACTED] 2019 SER application.

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. Issue payment to DTE in the amount approved on the [REDACTED], 2019 State Emergency Relief Decision Notice as Petitioner fulfilled all of the conditions of having that payment issued; and
2. Notify Petitioner in writing of its actions.

JM/tm



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

DHHS

Charisse Ryden
51111 Woodward Ave 5th Floor
Pontiac, MI
48342

Petitioner

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

cc: SER-T. Bair; Erich Holzhausen
Oakland County AP Specialist (4)