



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: December 4, 2019
MOAHR Docket No.: 19-010991
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 27, 2019, from Lansing, Michigan. Petitioner personally appeared and testified unrepresented. The Department of Health and Human Services (Department) was represented by Patty Marx, FIM.

ISSUE

Did the Department properly deny Petitioner's State Emergency Relief (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 applied for SER assistance with the Respondent for assistance for a new well on her residential property.
2. On August 12, 2019, the Respondent issued a SER Decision Notice informing Petitioner that if she submitted proof of a copayment of \$4,892.00 by August 29, 2019, the Respondent will pay \$1,500.00. Exhibit A.21.
3. On August 16, 2019, the work was completed.
4. Petitioner did not deliver the verification by the due date.
5. On [REDACTED] 2019, Petitioner reapplied along with proof of the copayment.
6. On September 27, 2019 Petitioner filed a hearing request.

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.

Applicable to the case here is policy found at ERM 103 and 208.

The purview of an Administrative Law Judge is to review the Department's action and to make a determination if the evidence of record supports that action taken by the Department. After the Department meets its burden of going forward, Petitioner has burden of proof to show that the action is not supported by the evidence and is contrary to law or policy. ALJs do not have any jurisdiction to deviate from law or policy due to individual circumstances.

In this case, the Department alleges that it followed its procedure in informing Petitioner as to the approval of the SER, contingent on verification of proof of copay due by August 29, 2019.

Unrefuted evidence is that the verification was not returned by the due date.

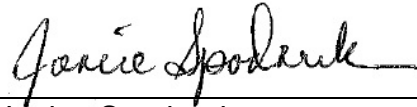
Petitioner argues that she did not receive the notice and if she did, she did not understand that she had to turn in the verification by August 29, 2019, due to a conversation she had with her worker. However, that conversation took place before the August 12, 2019 notice, which explicitly states: "If verification of your payment(s) is not returned by 8/29/19 the DHS payment will not be made you will need to reapply." Petitioner had no evidence of not having received her mail.

Unfortunately for Petitioner, the Administrative Law Judge has no authority to deviate from the requirements of the program. Unrefuted evidence is that the verification was not returned. And while not on the record, presumably any reapplication would not be approved on the grounds that the emergency no longer existed.

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 acted in accordance with Department policy when it failed to authorize a copayment due to lack of verification.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



JS/ml

Janice Spodarek
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

Patricia Marx (Benzie)
448 Court Place
Govt. Center
Beulah, MI 49617

Benzie County DHHS – Via Electronic
Mail

BSC2 – Via Electronic Mail

T. Bair – Via Electronic Mail

E. Holzhausen – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED] MI [REDACTED]