



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: March 24, 2020
MOAHR Docket No.: 20-001030
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 11, 2020, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Debney Lofton, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's ██████████, 2020 application for State Emergency Relief (SER) assistance with gas and electric?

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 ██████████ 2019, Petitioner applied for SER assistance with water, gas and electric (Exhibit A, pp. 5-17).
2. On October 29, 2019, the Department sent Petitioner a SER Decision Notice notifying him that it would pay his outstanding non-heat electricity and heat-gas, but he would be responsible for payment of \$144.42 towards his water. The copayment was due by November 23, 2019. (Exhibit A, p. 18)
3. Petitioner did not make his water copayment by the due date.
4. On ██████████ 2020, Petitioner reapplied for SER assistance with electric and gas.

5. On January 16, 2020, the Department sent Petitioner a SER Decision Notice notifying him that his request for assistance for \$185.39 for non-heat electricity and \$87.15 for heat was denied because his shortfall amount (unmet required payments) was greater than or equal to the amount needed to resolve the emergency.
6. On [REDACTED] 2020, the Department received Petitioner's request for hearing disputing the denial of SER assistance (Exhibit A, p. 3).

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.

Petitioner requested a hearing to dispute the Department's denial of his request for SER assistance. The Department responded by explaining the actions it took in connection with Petitioner's [REDACTED], 2019 SER application. However, at the hearing, Petitioner clarified that he had requested a hearing to dispute the Department's denial of his J [REDACTED] 2020 SER application. The Department confirmed that Petitioner had reapplied for SER assistance with gas and electric on [REDACTED], 2020 and that the Department had denied this application in a January 16, 2020 SER Decision Notice (Exhibit B). The hearing proceeded to address the denial of the January 13, 2020 application.

The application was denied because Petitioner's shortfall amount (the unmet required payments) was equal to or greater than the amount needed to resolve the emergency. To be eligible for SER assistance with energy services, which include heat and electric services, a SER group must make required payments towards its energy service. ERM 301 (November 2019), pp. 4, 7. Required payment amounts are based on the group size and service (heat or electric). ERM 301, pp. 7-8. To determine whether required payment amounts are satisfied, the Department reviews the six-month period prior to the month the SER group applied for assistance. Unless the SER group shows good cause to be excused from making a required energy payment for any specific month, the amounts paid by the group for heating fuel and/or electricity each month must equal or exceed the required payment for that group size. ERM 301, p. 8. For determining whether a SER group made its required payments, the Department applies the most beneficial method to the client, either applying only the payments made for the service requested or the payments made for both heat and electricity. ERM 301, p. 8. If the SER group has not made a payment equal to or in excess of a required payment for any

month in which it does not have good cause, the group must pay the shortfall before any SER payment by the Department can be authorized. ERM 301, p. 9.

In this case, the SER Decision Notice advised Petitioner that he was not eligible for any SER assistance towards his \$185.39 electric overdue payment or his \$87.15 gas overdue payment because his shortfall amount from unmet required payments exceed the amount needed to resolve the emergency. Because the Department concluded that Petitioner had a shortfall that exceeded the amount needed to resolve his emergency and the amount needed to resolve the emergency totaled \$272.54 (the sum of the overdue electric and gas payments), Petitioner had unmet required payments of at least \$272.54. However, to show that Petitioner's unmet required payments exceeded \$272.54, the Department would be required to present evidence of (i) Petitioner's SER group size and the applicable total monthly required payment for each of the six months preceding the [REDACTED] 2020 application month, (ii) how much Petitioner actually paid towards his outstanding balance for each service for each month, and (iii) Petitioner not having good cause as defined in ERM 204 (February 2017), p. 2, for any of the six-months preceding the application month. The Department did not present any such evidence at the hearing. In the absence of such evidence, the Department failed to satisfy its burden to show that Petitioner had unmet required payments resulting in a shortfall equal to or in excess of the amount needed to resolve his energy emergency.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's [REDACTED] 2020 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. Reinstate and reprocess Petitioner's [REDACTED] 2020 SER application for energy services assistance;
2. If Petitioner is eligible for SER benefits, pay the energy provider for any such approved payments; and

3. Notify Petitioner in writing of its decision.

ACE/tlf



Alice C. Elkin
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-31-Hearings
BSC4 Hearing Decisions
T. Bair
E. Holzhausen
MOAHR

Petitioner – Via First-Class Mail:

