



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: April 22, 2020
MOAHR Docket No.: 20-001637
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John S. 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 March 26, 2020 from Detroit, Michigan. Petitioner was represented by [REDACTED], Authorized Hearing Representative. The Department of Health and Human Services (Department) failed to appear. The hearing was held in the Department's absence.

After holding the hearing and closing the record, the undersigned Administrative Law Judge received an adjournment request from the Department. It had been faxed by the Department the day before the hearing. As the Department did not hear back on the request, it was effectively denied.

ISSUE

Did the Department properly deny Petitioner's [REDACTED], 2019 application for State Emergency Relief (SER) benefits to assist with home repairs?

Did the Department properly deny Petitioner's [REDACTED] 2020 application for State Emergency Relief (SER) benefits to assist with 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 lives in a home that is subject to a lien by the Department. The Department granted Petitioner a life estate in the property for Petitioner's lifetime.

2. On [REDACTED] 2019, Petitioner submitted to the Department an application for SER benefits to assist with home repairs on the home in question.
3. On January 3, 2020, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that her application for SER benefits was denied as a result of the Department's finding that Petitioner was not eligible because a group member is not the owner or purchaser of the home.
4. On [REDACTED] 2020, Petitioner submitted to the Department another application for SER benefits to assist with home repairs.
5. On January 23, 2020, the Department issued to Petitioner a State Emergency Relief Decision Notice informing Petitioner that her application for SER benefits was denied as a result of the Department's finding that Petitioner failed to participate in the required telephone interview.
6. On [REDACTED], 2020, Petitioner submitted to the Department a request for hearing objecting to the denial of her [REDACTED], 2019 and [REDACTED], 2020 SER applications.

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 denial of her [REDACTED], 2019 and [REDACTED] 2020 applications for SER benefits to assist with home repairs. The Department denied the applications because Petitioner allegedly lacked an appropriate interest in the property and failed to participate in a required interview.

SER assists clients with emergency situations related to housing and other essential needs. ERM 101 (March 2013), p. 1. In order to be approved, an applicant must verify that he or she is eligible, which includes the verification that an emergency exists and that the applicant meets the financial requirements. ERM 103 (March 2019), p. 1; ERM 101, p. 1. An SER group member must be the owner or purchaser of the home or hold

a life estate on the home with the responsibility for home repairs. ERM 304 (October 2018), p. 4.

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, p. 5. Applicants must be informed of all verifications that are required and where to return verifications. ERM 103, p. 6. The due date for verification is eight calendar days from the date the verification is requested. ERM 103, p. 6. The applicant must make a reasonable effort to obtain required verifications. ERM 103, p. 6. The Department must deny an application if the applicant does not take action within their ability, including the procurement and providing of verifications. ERM 102 (October 2018), p. 1.

The [REDACTED], 2019 application was denied because the Department determined that Petitioner did not have a qualifying interest in the real property. However, the Department was aware at the time it made the decision that it had granted Petitioner a life estate in the property, which is specifically listed as a qualifying interested in ERM 304. The [REDACTED] 2020 application was denied because the Department determined that Petitioner failed to participate in the required telephone interview. However, during the hearing, Petitioner's representative testified that he and Petitioner both made diligent efforts to communicate with the Department at the time of the scheduled interview and in the days thereafter to no avail. Based on the evidence presented, any failure to complete the telephone requirement was not the fault of Petitioner.

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 [REDACTED] 2019 and [REDACTED] 2020 applications for SER benefits.

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 applications for SER benefits;
2. If the Department needs further verification of Petitioner's eligibility for the requested SER benefits, provide to Petitioner clear requests for verification and allow Petitioner the opportunity to respond pursuant to Department policy;

3. If Petitioner is entitled to SER benefits, issue benefits she is entitled to receive; and
4. Notify Petitioner of its actions in writing.

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

Kimberly Kornoelje
121 Franklin SE
Grand Rapids, MI
49507

Authorized Hearing Rep.



Petitioner



cc: SER-T. Bair; Erich Holzhausen
AP Specialist-Kent County (3)