



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: July 7, 2020
MOAHR Docket No.: 20-002456
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 June 16, 2020. Petitioner appeared unrepresented. The Department of Health and Human Services (Department) was represented by Tamika Sullivan, FIM, and Kathy Morefield, ES Worker.

Exhibit A.24 was offered and admitted into the record by the Department.

ISSUE

Did the Department properly process Petitioner's request for state emergency relief?

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] 2020, Petitioner applied for SER for gas and electric. Petitioner subsequently withdrew the application.
2. On [REDACTED] 2020, Petitioner applied for SER for water relief.
3. On March 6, 2020, the Department received verification that Petitioner had illegal utility usage for the months of December 2019, and January and February 2020. The Department denied Petitioner's [REDACTED] 2020 application for illegal usage.
4. Due to COVID 19, all of Petitioner's utilities services were restored and/or payments were made.
5. On March 12, 2020, 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.

In this case, Petitioner had a difficult time articulating why he requested an administrative hearing, what issues he wanted addressed, and what remedy he sought. Petitioner stated at the end of the hearing, that he wanted a judgment stating that what the Department did was wrong, without indicating which program(s) and or, remedy he was requesting.

In this case, Petitioner filed multiple applications, with a withdrawal, a resubmission, a failure to pay a copay, and disagreements between the Petitioner and the Department as to what took place at the prehearing conference. What is clear, is that Petitioner was without water for some time due to illegal usage. Exhibits A.6-7 documents the utility company's statement of the illegal usage. Petitioner denies illegal usage but presented no evidence that would rebut the illegal usage documented in Exhibits A.6-8.

Unrefuted evidence of record is that Petitioner had illegal water usage, failed to pay a Department SER co-pay, made past due utility payments directly to the water company, had his services restored during COVID 19. and had his emergency resolved.

To the extent that Petitioner wants payment for any services, fines, or penalties due to illegal usage, ERM 302, the State of Michigan does not allow payments where there has been "Unauthorized or illegal usage of any utility." ERM 302, page 1, Effective October 1, 2018.

To the extent that Petitioner wants money from the State of Michigan where an emergency no longer exists, ERM policy specifically prohibits payments where an emergency has been resolved. ERM 101.

Here, evidence of record is that Petitioner no longer had an emergency and thus, any payment or action by the state could not and cannot be made, as an emergency no longer existed.

Individuals alleging eligibility under the State of Michigan welfare programs have the burden of proof by a preponderance of evidence. Here, Petitioner failed to articulate any other issue that the undersigned has jurisdiction to address. Petitioner also failed to

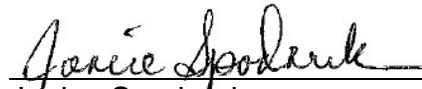
rebut the Department's evidence substantiating ineligibility under the ERM policy and procedure. Thus, the Department's actions are upheld.

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 acted in accordance with Department policy when it denied Petitioner's requests for emergency relief.

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

Muskegon County DHHS – Via Electronic Mail

BSC3 – Via Electronic Mail

T. Bair – Via Electronic Mail

E. Holzhausen – Via Electronic Mail

Petitioner

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