



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]

Date Mailed: September 16, 2020
MOAHR Docket No.: 20-004840
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 hearing was held on August 26, 2020, via telephone conference line. The hearing was held 30 minutes following the scheduled hearing time of 2:30 p.m. Petitioner participated and was unrepresented. [REDACTED], Petitioner's roommate, testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) failed to participate in the hearing.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER).

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 seeking assistance with an energy bill.
2. On June 8, 2020, MDHHS denied Petitioner's application due to Petitioner's request to withdraw his application.
3. As of June 8, 2020, Petitioner did not request withdrawal of his SER application.
4. On June 29, 2020, Petitioner requested a hearing to dispute the denial of SER.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by MDHHS pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. MDHHS policies are contained in the Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute the denial of a SER application dated [REDACTED], 2020. MDHHS did not participate in the hearing; as a result, MDHHS presented no testimony or evidence explaining why Petitioner's application was denied. Petitioner credibly stated that MDHHS sent him a denial notice on June 8, 2020, stating that his application was denied because he withdrew his application.

MDHHS is to deny SER when applicants refuse to take action or withdraw their application. ERM 102 (October 2018) p. 1. During the hearing, Petitioner rhetorically questioned why he would apply for SER and then withdraw his SER application. Petitioner further testified that he never withdrew his SER application. MDHHS presented no evidence rebutting Petitioner's testimony.

Given the evidence, Petitioner did not withdraw his SER application dated [REDACTED], 2020. Thus, the denial dated June 8, 2020, based on Petitioner's withdrawal was improper. As a remedy, Petitioner is entitled to reregistration and reprocessing of his application.


DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER application. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Register Petitioner's SER application dated [REDACTED], 2020, seeking assistance for energy services; and
- (2) Process Petitioner's application subject to the finding that Petitioner did not withdraw his application request.

The actions taken by MDHHS are **REVERSED**.

CG/tlf



Christian Gardocki
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-Oakland-IV-Hearings
BSC4 Hearing Decisions
T. Bair
E. Holzhausen
MOAHR

Petitioner – Via First-Class Mail:

