



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: September 9, 2020
MOAHR Docket No.: 20-004980
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 via telephone conference on August 27, 2020, from Trenton, Michigan. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Heather Hembree, supervisor.

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 eviction.
2. On June 16, 2020, MDHHS unsuccessfully attempted to contact Petitioner by telephone.
3. On June 17, 2020, MDHHS unsuccessfully attempted to contact Petitioner by telephone.
4. On June 17, 2020, MDHHS mailed Petitioner an Appointment Notice with a telephone appointment for June 18, 2020, at 10:00 a.m.
5. On June 18, 2020, MDHHS unsuccessfully attempted to contact Petitioner by telephone.

6. On June 25, 2020, MDHHS denied Petitioner's SER application due to Petitioner's alleged failure to be interviewed.
7. On [REDACTED], 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 a denial of a SER application requesting assistance with an eviction. Exhibit A, pp. 4-5. A State Emergency Relief Decision Notice dated June 25, 2020, stated that Petitioner's application was denied due to Petitioner failing to verify information. Exhibit A, pp. 13-15. MDHHS testimony clarified that Petitioner specifically failed to be interviewed concerning her SER application.

All SER applications require an interview with an adult member of the SER group or the authorized representative.¹ ERM 103 (March 2018) p. 5. At minimum, a phone interview must be completed. *Id.* The interview must be documented on the Individual Interviewed screen for each SER. *Id.* If an applicant cannot be reached by phone and no interview has been scheduled, the DHS-0170, Appointment Notice, must be sent informing the applicant of the interview requirement. *Id.*

Petitioner applied for SER on [REDACTED], 2020. Exhibit A, pp. 6-10. MDHHS credibly testified that Petitioner was called on June 16, 2020, and June 17, 2020, and that Petitioner did not answer either phone call. Following Petitioner's non-responsiveness, MDHHS mailed Petitioner an Appointment Notice on June 17, 2020, scheduling Petitioner for a telephone appointment on June 18, 2020 at 10:00 a.m. Exhibit A, pp. 11-12. When MDHHS called Petitioner for her appointment, Petitioner again did not respond. As a result, MDHHS denied Petitioner's application.

Petitioner testified that she was unaware that MDHHS was calling her because the calls did not appear on her caller ID as from MDHHS. Petitioner's screening of her phone calls does not excuse her non-responsiveness.

MDHHS policy dictates that clients receive written notice for a SER interview appointment. MDHHS sent Petitioner such a notice, but it was unreasonable to expect that Petitioner receive the notice before her appointment. MDHHS sent written notice for an appointment at 10:00 a.m. the day before her appointment. MDHHS acknowledged

¹ MDHHS testified that interviews for SER are discretionary during the time of COVID-19 pandemic. MDHHS reasonably contended that requiring Petitioner be interviewed was a proper use of discretion because Petitioner did not have an open benefit case. Because Petitioner did not have benefits, her circumstances were not previously discussed.

that Petitioner could not have received notice of her appointment before her appointment time.

During the hearing, MDHHS initially argued that sending written notice of an interview appointment is discretionary, and not a requirement. The statement that an Appointment Notice "must be sent" is unambiguous support that proper written notice is not discretionary.

Given the evidence, MDHHS improperly mailed Petitioner proper notice of her SER interview appointment. Thus, the subsequent SER denial for Petitioner failing to participate in an interview was also improper.

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 application for SER. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reregister Petitioner's application for SER dated [REDACTED] 2020; and
- (2) Process Petitioner's application subject to the finding that MDHHS failed to send proper notice of Petitioner's interview appointment.

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-6303-Hearings
BSC4 Hearing Decisions
T. Bair
E. Holzhausen
MOAHR

Petitioner – Via First-Class Mail:

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