



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: December 16, 2020  
MOAHR Docket No.: 20-005857  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

**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 October 29, 2020, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Eileen Kott, Family Independence Manager (FIM).

**ISSUE**

Did the Department properly process and/or deny Petitioner's ██████████, 2020, ██████████, 2020, and ██████████, 2020 requests for State Emergency Relief (SER) assistance?

**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 or around ██████████, 2020, Petitioner submitted an application for SER assistance with heat, electric and water services. (Exhibit B, pp. 2-6)
2. On May 19, 2020, the Department sent Petitioner a State Emergency Relief Decision Notice informing him that the Department approved \$██████████ towards his request for assistance with heat, \$██████████ towards his request for assistance with electric, and \$0 towards his request for assistance with water services. The SER Decision Notice further informs Petitioner that he must make a \$200 copayment towards his total request for assistance and provide proof that his payment has been made prior to June 13, 2020 or the Department would not make its approved payments. (Exhibit B, pp. 8-11)

3. Petitioner made his required \$200 copayment towards the water services and timely provided the Department with verification of his payment.
4. The Department did not make any payment towards Petitioner's heat or electric services in connection with the [REDACTED], 2020 SER application and May 19, 2020 SER Decision Notice because Petitioner's DTE account for heat and electric services was not in shut off or past due status. (Exhibit B, p. 7)
5. Petitioner confirmed that at the time he submitted his [REDACTED], 2020 SER application, he did not have a shut off notice for his heat or electric services.
6. On [REDACTED], 2020, Petitioner reapplied for SER assistance with heat services in the amount of \$[REDACTED] and electric services in the amount of \$[REDACTED] (Exhibit A, pp. 15-19)
7. The Department conceded that the [REDACTED], 2020 SER application was received but an eligibility decision was not issued to Petitioner either approving or denying the application.
8. The Department asserted that the [REDACTED], 2020 SER application should have been denied because Petitioner did not complete the application interview requirement.
9. On [REDACTED], 2020, Petitioner submitted a third application for SER assistance with heat and electric services. On the application, Petitioner reported that he sought \$700 in assistance with heat and \$700 in assistance with electric services. (Exhibit A, pp. 20-24)
10. On August 13, 2020, the Department sent Petitioner a SER Decision Notice advising him that his request for assistance with electric was approved and the Department would pay \$[REDACTED] towards his electric service. The SER Decision Notice did not address Petitioner's request for assistance with heat services. (Exhibit A, pp. 30-33)
11. The Department made its approved \$[REDACTED] payment towards Petitioner's past due electric bill. (Exhibit A, pp. 25, 34)
12. The Department asserted that at the time the [REDACTED], 2020 SER application was submitted, Petitioner did not have a past due balance or shut off notice for his heat service.
13. On August 19, 2020, Petitioner requested a hearing disputing the Department's actions with respect to his SER benefits. (Exhibit A, pp. 4-11)

### **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 disputing the Department's actions with respect to the SER program. It was initially unclear what issue Petitioner requested a hearing to dispute. After some discussion, it was established that Petitioner's dispute concerned three SER applications submitted on [REDACTED], 2020, [REDACTED], 2020, and [REDACTED], 2020. An application from [REDACTED] 2020 was referenced by Petitioner; however, Petitioner was advised that based on the date of his August 19, 2020 request for hearing, that application would not be addressed as it is considered a subsequent action which the undersigned did not have the authority to address. See BAM 600. The [REDACTED], 2020, [REDACTED], 2020, and [REDACTED], 2020 SER applications will be addressed separately below.

#### [REDACTED] SER Application

In the [REDACTED], 2020, application, Petitioner requested SER assistance with heat, electric and water services. (Exhibit B, pp. 2-6). Petitioner did not raise any issue with respect to the Department's determination regarding his request for assistance with water services. It was established that at issue was the Department's actions concerning the heat and electric services.

Eligible households who meet all SER eligibility requirements may receive assistance to help them with household heat and electricity costs. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP). ERM 301 (April 2020), p. 1. When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. The payment is the minimum amount necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. Current bills that are not subject to shutoff should not be included in the amount needed. ERM 301, pp. 3-4. The Department must verify past due status, threatened shutoff or the need for gas or electricity and a bill must be obtained before authorizing a payment. The Department can use the Online Resources for Agencies (ORA) to access a client's energy account information and verify the account statement provided on the website in lieu of an actual bill. If the online statement is used, a copy must be retained in the case record. ERM 301, pp.11-15.

At the hearing, the Department did not dispute that the case worker had processed Petitioner's [REDACTED] 2020 SER application and issued the May 19, 2020, SER Decision Notice approving \$[REDACTED] towards Petitioner's request with heat and \$[REDACTED] towards

his request with electric if Petitioner made a \$200 copayment towards his total request for assistance and provided proof that his payment had been made prior to June 13, 2020. (Exhibit B, pp. 8-11). Petitioner asserted that he made his \$200 copayment and provided the Department with proof of his payment prior to the date identified on the SER Decision Notice. Petitioner argued that the Department was required to issue its approved payment and because the Department did not, his heat and electric bills continued to accrue and accumulate.

The Department testified that although Petitioner timely returned verification that he made his \$200 copayment towards the costs of his SER request, because Petitioner's heat and electric services as verified by ORA were not in past due or in shut off status, it could not authorize any payment to DTE. (Exhibit B, p. 7). Department policy provides that the Department will authorize and issue payment for all SER covered services using the DHS-849, Authorization/Invoice. A shut off notice or invoice must be obtained before authorizing a payment and the SER payment must resolve the emergency. ERM 401, p. 1; ERM 103 (March 2019), p. 3. During the hearing, Petitioner confirmed that at the time of his [REDACTED] 2020 SER application, he did not have a shut off notice for his heat and electric account through DTE. There was no evidence presented that at the time of the [REDACTED], 2020 application, Petitioner was in a crisis situation that would warrant the Department to issue payment, as without the shut off notice, there was no emergency to resolve. Petitioner failed to present any evidence that his accounts with DTE were in shut off status or past due at the time the application was processed.

Upon review, although the Department should have obtained Petitioner's heat and electric account information through ORA prior to issuing the May 19, 2020, SER Decision Notice, Department policy did not authorize the Department to make any payment towards Petitioner's heat and electric accounts in connection with the [REDACTED], 2020 SER application.

#### [REDACTED], 2020 SER Application

In the [REDACTED], 2020, application, Petitioner requested SER assistance with heat and electric services. A review of the application indicates that \$[REDACTED] was requested for heat services and \$[REDACTED] requested for electric services. (Exhibit A, pp. 15-19). Although Petitioner testified that this application was submitted by an agent on his behalf, Petitioner signed the application as the applicant and no reference to an agent or authorized representative was made on the application. Petitioner testified that he did not receive any decision from the Department either approving or denying the application.

Applicants must complete and sign an application in order to apply for SER assistance. An application submitted through MI Bridges for a SER covered service is considered a complete application, and no additional application is required. For electronic applications submitted through MI Bridges, the application date is based on the date of submission. Applications must be registered within one day of receipt and online applications will be sent electronically to a registration inbox for proper assignment. ERM 103, pp. 1-7. All SER applications require an interview with an adult member of

the SER group or the authorized representative. An in-person interview is not required but must be granted upon request. At a minimum, a phone interview must be completed. 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. ERM 103, p. 5.

After processing, the Department is to inform all SER applicants in writing of the decision made on their application by sending a DHS 1419, Decision Notice. ERM 103, pp. 1-7. The DHS-1419, State Emergency Relief Decision Notice, must be sent to the client for every energy request and the notice must include the required payment amounts to inform the client of their obligation; see ERM 103, Application Procedures. The DHS-1150, Application Eligibility Notice may be issued to notify a client of a denied SER request and must be issued in instances where no DHS-1419 is generated through Bridges. ERM 301, p. 10.

At the hearing, the Department conceded that the ██████, 2020 SER application was received but an eligibility decision was not issued to Petitioner either approving or denying the application. The Department asserted that the ██████, 2020 SER application was likely denied because Petitioner did not complete the application interview requirement. It was unclear when an interview was attempted with Petitioner and no evidence was presented by the Department that an Appointment Notice was issued to Petitioner informing him of the interview requirement. Furthermore, the Department's testimony fails to consider Economic Stability Administration (ESA) Memorandum 2020-17, COVID-19 and SER Changes policy, which provides that for cases processed after March 30, 2020, a phone interview is no longer required. In instances where changes are reported or there are discrepancies that must be resolved, the worker may choose to complete an interview. See ESA Memorandum 2020-17: COVID-19 and SER Changes.

In this case, there was no evidence that changes were reported or that there were any discrepancies to be resolved. Additionally, there was no eligibility decision issued confirming denial of the application due to a failure to participate in the interview process or for any other reason. Upon review, the Department failed to establish that it properly processed Petitioner's ██████, 2020 SER application.

#### ██████, 2020 SER Application

In the ██████, 2020, application, Petitioner requested SER assistance with heat and electric services. (Exhibit A, pp. 20-24). The Department processed Petitioner's application and on August 13, 2020, sent Petitioner a SER Decision Notice advising him that his request for assistance with electric was approved and the Department would pay \$██████ towards his electric service. (Exhibit A, pp. 30-33). Evidence presented during the hearing established that the Department made its approved \$██████ payment towards Petitioner's past due electric bill. (Exhibit A, pp. 25, 34). The SER Decision Notice did not address Petitioner's request for assistance with heat services and the Department testified that at the time the ██████, 2020 SER application was

submitted, Petitioner did not have a past due balance or shut off notice for his heat service. Although the Department testified that the case worker relied upon information from ORA obtained at the time the application was processed, this ORA online statement documentation was not presented for review. Instead, the Department presented an ORA statement retrieved on September 2, 2020. The Department testified that it could not access the past account information for the heat service from ORA. However, if an ORA account statement was used to process the request for assistance with electric, the Department was required to maintain the statement in its case record pursuant to ERM 301, pp. 11-15. Additionally, even if Petitioner's account did not have a past due balance for heat services, the Department is required to issue a SER Decision Notice or similar eligibility notice for each request for energy service made. See ERM 103 and 301 referenced above. No evidence was presented that the Department properly processed Petitioner's request for SER assistance with heat in connection with his [REDACTED], 2020 application.

Although not initially raised as an issue by Petitioner, later in the hearing, Petitioner disputed the amount of the approved payment for his electric service of \$[REDACTED]. As referenced above, the Department failed to produce the ORA account statement relied upon when processing Petitioner's [REDACTED], 2020 SER application, and no additional documentation was presented supporting this authorized amount. The Department's hearing packet (Exhibit A) contained various DTE Payment Coupons/Statements for the time periods at issue documenting Petitioner's balances for electric and heat services and amounts that must be paid in order to avoid shut off. It was unclear whether these statements were used by the Department, how they were obtained, or when they were received by the Department, as Petitioner denied submitting them in connection with his application. (Exhibit A, pp. 34-39). Upon review and based on the evidence presented during the hearing, the Department failed to establish that it properly determined and authorized payment for electric services in the amount of \$[REDACTED].

Because the Department failed to properly process Petitioner's [REDACTED], 2020 SER request for assistance with heat and failed to establish that the approved amount for electric services was correct, the Department will be required to reprocess Petitioner's [REDACTED], 2020 SER application in its entirety.

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 processed Petitioner's [REDACTED], 2020 SER application but did not act in accordance with Department policy when it processed Petitioner's [REDACTED], 2020 and [REDACTED], 2020 SER applications.


### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the [REDACTED] 2020 SER application and **REVERSED IN PART** with respect to the [REDACTED], 2020 and [REDACTED], 2020 SER applications.

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. Reregister and process Petitioner's [REDACTED], 2020 and [REDACTED], 2020 SER Application for assistance with electric and heat services to determine his eligibility for SER;
2. Issue supplements to Petitioner and/or his utility provider for any SER benefits Petitioner was eligible to receive but did not; and
3. Notify Petitioner in writing of its decision.

ZB/jem

  
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**Zainab A. Baydoun**  
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-76-Hearings  
BSC4-HearingDecsions  
T. Bair  
E. Holzhausen  
MOAHR

**Petitioner - Via First-Class Mail:**

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