



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 4, 2020
MOAHR Docket No.: 20-006336
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 December 2, 2020, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Tiara Dawson, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner’s State Emergency Relief (SER) application?

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 ██████████, 2020, Petitioner submitted an application for SER benefits for assistance with roof repairs (Exhibit A, pp. 7-11).
2. On September 14, 2020, the Department sent Petitioner an Application Notice informing her that her SER decision was denied (Exhibit A, p. 6).
3. On September 23, 2020, Petitioner submitted a request for hearing disputing the Department’s actions.

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 submitted an application for SER benefits on [REDACTED], 2020, for assistance with repairs to her roof. Petitioner listed her address in the application as [REDACTED]. The Department testified that it denied the application, as Petitioner did not own [REDACTED].

SER benefits assist with home repairs to correct unsafe conditions and restore essential services. ERM 304 (October 2015), p. 1. Non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement. ERM 304, p. 3. An SER group member must be an owner or purchaser of the home or holds a life estate on the home with the responsibility for repairs. ERM 304, p. 4. If the home is co-owned, the cost of the emergency is not split between the co-owners or co-purchasers. ERM 304, p. 4.

The Department presented Petitioner's tax documents showing that she pays property taxes located at [REDACTED]. The Department also provided the deed to Petitioner's home showing she is the owner of the property located at [REDACTED]. Additionally, the Department provided information from its electronic record keeping system showing that [REDACTED] resides at [REDACTED]. The Department determined that Petitioner did not own or reside at the address in her application for SER benefits. As a result, Petitioner's SER application was denied.

At the hearing, Petitioner testified that her residence is a two-unit dwelling. Petitioner stated that she lives in the upstairs unit and her mother, [REDACTED], lives in the lower unit. Petitioner stated that she owns both units. Petitioner testified that each unit has a separate address and separate utilities.

Petitioner's testimony that the building in which she lives is a two-unit dwelling was credible. Although the evidence only shows that Petitioner is the owner of [REDACTED], both residences share the same roof. It is likely that the residences have separate addresses only for utility and mailing purposes. Therefore, the Department did not properly follow policy when it denied Petitioner's SER application for not being the owner of the home for which she was requesting repairs.

DECISION AND ORDER

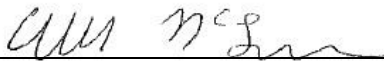
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Petitioner's SER application.

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. Reinstate and reprocess Petitioner's [REDACTED], 2020 SER application;
2. If Petitioner is eligible for SER benefits, issue payments in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.

EM/jem



Ellen McLemore
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-31-Grandmont-Hearings
T. Bair
E. Holzhausen
MOAHR

Petitioner – Via USPS:

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