



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], MI [REDACTED]

Date Mailed: March 5, 2021  
MOAHR Docket No.: 21-000215  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Landis Lain**

### **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 March 3, 2021, from Lansing, Michigan. The Petitioner self-represented at the hearing and objected to continuing with the hearing because the caseworker and the caseworker's supervisor were not present for the hearing. Petitioner requested an adjournment which was denied by the undersigned Administrative Law Judge.

The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearings Facilitator, who was sworn in as a witness. Her testimony is not contested.

Department's Exhibit A pages 1-13 and Exhibit B pages 1-2 were admitted as evidence.

### **ISSUE**

Did the Department properly deny 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 State Emergency Relief for assistance with water and electricity, indicating that his water had been shut off February 19, 2020, with a balance in the amount of \$757.81.

2. On December 4, 2020, Petitioner was approved for SER for water/sewage with a \$1.98 co-pay.
3. Petitioner's all electric household was denied because the Board of Water and Light was not closing electric during the winter.
4. The Department determined that there was no electricity emergency.
5. On January 7, 2021, Petitioner filed a Request for Hearing to contest the Department's negative action.
6. On January 25, 2021, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents.
7. Petitioner alleged on the record that his lights and water were shut off in February 2020 and he borrowed the money and got them turned back on in February 2021 by paying the full amount.
8. A February 25, 2021, email from the Board of Water and Light indicated that it was not shutting off for non-pay at this time. All services at [REDACTED] are on.
9. Petitioner alleged that he has resolved the emergency as of February 2021.

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Bridges Administrative Manual (BAM 600).

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.

Pertinent Department Policy from ERM 302, pages 1-4 dictates:

State Emergency Relief (SER) helps to restore or prevent shut off of a utility service specified in this item when service is necessary to prevent serious harm to SER group members.

The following are covered utility services:

- Payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. The payment must restore or continue service for at least 30 days at the current residence. However, payments for current charges are not allowed.
- A deposit (including membership fees and lease/rental payments for an on-site storage tank) required by the utility provider to begin, maintain, or restore one of the following services currently or previously the responsibility of the SER group: water, sewer and cooking fuel.
- Fees for connection, reconnection, or hookup of utility services. The bill does not have to be in the client's name but it must be connected to the group's current address. If the bill, including old or transferred balances, must be paid to start or maintain service at the current or new address, payment may be authorized up to the fiscal year cap as long as the payment resolves the emergency.

Verify actual or possible shutoff of water, sewer or cooking gas service by:

- A disconnect notice from the utility.
- Information from the utility provider's secure website.
- An overdue or delinquency notice when the water or sewer is not disconnected but the arrearage is added to the local tax bill.
- The client's statement of need for cooking fuel.

Verify that the SER group has made required payments by:

- A statement from the provider.
- Utility payment receipts.
- Fax/email/phone call from the provider.
- Information from provider's secure website.

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 amount of the payment is the minimum 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 pages 3-4 (Emphasis added)

In this case, the Department did not allege that it determined whether the electricity was shut off from February 2020 until the December application. The Department determined that there was no emergency but did not provide notice of why the determination was made. There was no finding made that Petitioner's electricity was on in December 2020. There was no finding that the Department caseworker made an effort to verify whether Petitioner's power was shut off at the time of application. The caseworker who worked on the case was not present for the hearing. None of the evidence presented in this case establishes that Petitioner's lights were on during the application month December 2020. The Department did not provide evidence that it verified the actual or possible shut off as is required by policy.

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 has not established that it acted in accordance with Department policy when it denied Petitioner's application for assistance with his lights/electricity.


### **DECISION AND ORDER**

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 Petitioner's December application for State Emergency Relief;
2. Determine whether Petitioner's electricity was shut off in December 2020;
3. Determine if Petitioner would have been eligible for State Emergency Relief for Electricity in December 2020;
4. Notify Petitioner of his eligibility for SER or lack thereof, as well as the reasons for the determination; and,
5. If Petitioner is otherwise eligible, pay to Petitioner any State Emergency Relief for his electricity benefits that he would have been entitled to receive in December 2020.

LL/hb

  
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**Landis Lain**  
Administrative Law Judge  
for Elizabeth Hertel, 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**

Ingham County via electronic mail

BSC2 via electronic mail

T. Bair via electronic mail

E. Holzhausen via electronic mail

**Petitioner**

[REDACTED], MI [REDACTED]