



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: September 1, 2021
MOAHR Docket No.: 21-003556
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 August 30, 2021, from Detroit, Michigan. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Samar Hamad, Assistance Payments Supervisor/Arabic interpreter and Ikhla Sullivan, Assistance Payments Worker.

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 ██████████, 2021, Petitioner submitted an application for SER benefits for assistance with non-energy home repairs (Exhibit A, pp. 6-11).
2. On July 15, 2021, the Department sent Petitioner an Application Notice informing her that her SER application was denied (Exhibit A, pp. 11-12).
3. On ██████████ 2021, 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] 2021, requesting assistance with non-energy home repairs. Petitioner experienced flood damage to her basement that occurred on June 27, 2021. In the application, Petitioner did not indicate what repairs she was requesting. On July 14, 2021, the Department contacted Petitioner to determine what repairs she was seeking. Petitioner stated she needed her washer, dryer and refrigerator replaced, as well as water damage remediation to her floors, walls, etc. in her basement.

SER benefits assist with home repairs to correct unsafe conditions and restore essential services. ERM 304 (October 2018), p. 1. Non-energy-related repairs include repairs to the basic structure of the home, as well as to doors and windows. ERM 304, p. 3. The authorization of payment is only made if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile part regulation. ERM, p. 3. The repair(s) must restore the home to a safe, livable condition. ERM 304, p. 3. The Department will not authorize payment for improvements or nonessential repairs. ERM 304, p. 3. SER funds are not available for appliance items such as refrigerators and washers. ERM 100 (May 2021), p. 3.

On July 15, 2021, the Department sent Petitioner an Application Notice informing her that her SER application had been denied. The Department testified that the repairs for which Petitioner sought SER funds, were not covered by policy.

The Department properly followed policy when it denied Petitioner application for SER funds for the replacement of her refrigerator, washer and dryer. Per policy, those items are not covered by SER funds. However, at the hearing the Department presented an estimate for repairs for water damage to Petitioner's basement that was submitted by Petitioner on July 16, 2021 (Exhibit A, pp. 14-15). The estimate indicates that Petitioner needed water removed from her basement, the replacement of drywall and doors due to water damage, as well as spray treatment for mold. Such repairs are essential to restore Petitioner's home to a safe, livable condition, and are covered by SER funds. Therefore, the Department did not act in accordance with policy when it denied Petitioner's SER application.

DECISION AND ORDER

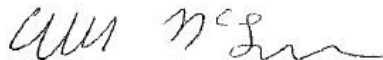
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Petitioner's SER application.

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], 2021 SER application;
2. If Petitioner is eligible for SER benefits, issue benefits in accordance with Department policy; and
3. Notify Petitioner of its decision in writing.

EM/tm



Ellen McLemore
Administrative Law Judge

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-17-Hearings
T. Blair
E. Holzhausen
BSC4
MOAHR

Petitioner – Via First-Class Mail:

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