



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
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[REDACTED] MI [REDACTED]

Date Mailed: October 22, 2021
MOAHR Docket No.: 21-004333
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 7, 2021. Petitioner was present and represented by herself. The Department of Health and Human Services (Department or MDHHS) was represented by Pamela Carswell, a Department employee.

ISSUE

Did the Department properly process Petitioner's State Emergency Relief (SER) and State Disability Assistance (SDA) applications?

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] 2021, Petitioner submitted two applications for assistance—one for SER and one for SDA.
2. On the SER Application, Petitioner requested: \$9,869.00 for heat and electric household payments, \$150.00 for water and sewage household payments, \$200.00 towards her mortgage payment, and \$1,200.00 for property taxes (Exhibit A, p. 1).
3. On August 26, 2021, a telephone interview was conducted between Petitioner and MDHHS in which Petitioner reported to her caseworker that her current address has been her permanent residence for four years. Petitioner initially was paying

rent to live at the property. Her landlord then lost ownership of the property. Petitioner is now working with the Detroit Housing Coalition on making payments towards ownership of the property. Petitioner testified that she verbally told this to her caseworker during that telephone interview, and said her home ownership status was "rent to purchase." Petitioner and MDHHS testified that she was not notified in writing that MDHHS required proof of home ownership and permanent residency for the SER requests for mortgage payments and property taxes.

4. On August 18, 2021, MDHHS reviewed Petitioner's DTE Energy Account which indicated that Petitioner made a \$4,000.00 payment on July 26, 2021, making her account balance total now \$5,109.61 (Exhibit A, p. 11-12). Petitioner was enrolled in DTE Energy's Low Income Self-Sufficient Plan (LSP), meaning that DTE Energy will not shut-off Petitioner's gas or electricity services (Exhibit A, p. 13).
5. On August 25, 2021, MDHHS reviewed Petitioner's Detroit Water and Sewage Department account which indicated an amount due of \$145.00 and delinquent amount due of \$1,949.86 (Exhibit A, p. 14).
6. On August 25, 2021, MDHHS issued a State Emergency Relief Decision Notice stating that (Exhibit A, p. 15-16):
 - a. MDHHS will pay ██████ towards Petitioner's Water or Sewage bill pending her copayment of ██████.
 - b. MDHHS denied Petitioner's Application for Assistance for property taxes, stating that the group is not eligible because the home is not the group's usual, permanent residence.
 - c. MDHHS denied Petitioner's Application for Assistance with mortgage payments, stating that the group is not eligible because the home is not the group's usual, permanent residence.
 - d. MDHHS denied Petitioner's Application for Assistance in paying her heat and electricity bill with DTE Energy because her account was not considered "past due," and she was not in jeopardy of losing services.
7. Prior to the SER Application at issue, MDHHS had made a payment to Petitioner's DTE Account on August 11, 2021 (Exhibit A, p. 19).
8. On August 25, 2021, MDHHS sent Petitioner a Notice of Case Action informing her that her SDA Application was denied for ineligibility because Petitioner is not disabled (Exhibit A, p. 9).
9. On September 10, 2021, MDHHS sent to Petitioner a Medical Determination Verification Checklist to determine her eligibility for SDA (Exhibit A, p. 21). This checklist was due from Petitioner on September 20, 2021.

10. On September 3, 2021, Petitioner requested a hearing regarding her Applications for SER and SDA (Exhibit A, p. 3).
11. On September 8, 2021, MDHHS received Petitioner's hearing request. As part of her hearing request, Petitioner provided a letter from Dr. Michael Drelles of Straith Pain Center, dated June 7, 2021 verifying that Petitioner has a lumbar degenerative disc disease, which is a permanent disability (Exhibit A, p. 4).

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).

STATE EMERGENCY RELIEF:

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. The SER payment must resolve the emergency. The group must meet all applicable policy requirements for the SER service. ERM 301 (October 2020), p. 1.

Petitioner applied for different kinds of assistance through SER, which are addressed individually:

Water/Sewage:

Petitioner disputes the decision for her water and sewage bill. MDHHS stated that it would pay ██████ towards Petitioner's Water or Sewage bill pending Petitioner's copayment of ██████. Petitioner was required to provide proof of her copayment by September 14, 2021. As of the date of the hearing, MDHHS had not received proof of Petitioner's payment to Detroit Water and Sewage. ██████ is the maximum payment that MDHHS will pay per fiscal year for water and sewage services. ERM 302 (May 2021), p. 1. If Petitioner does not provide proof of her payment for water and sewage services within 30 days of MDHHS's decision, then MDHHS will not make a payment to her account. ERM 302, p. 3. Here, Petitioner did not provide proof that she made a payment on her Detroit Water and Sewage account. Therefore, MDHHS acted in accordance with policy when they did not make a payment on Petitioner's water and sewage account.

Property Taxes and Mortgage:

Petitioner disputes the denial of her SER Application for Property Tax Payment Assistance and mortgage. The SER Denial Notice denied this assistance because Petitioner's residence was not her usual, permanent residence. Petitioner testified that she initially was renting her house. Her landlord then lost ownership of the property, so

Petitioner is now paying towards buying the house from the Detroit Housing Coalition. MDHHS stated that Petitioner revealed in her phone interview that she rented her home, but Petitioner testified that she verbally reported to her worker that she was in the process of purchasing the home, describing it as a “rent to own” process. Both parties agree that Petitioner was not notified in writing that MDHHS required proof of home ownership for the SER requests for property tax payments.

MDHHS will make Home Ownership Services payments towards property taxes and fees and mortgage to save a home threatened with loss due to mortgage foreclosure or land contract forfeiture. ERM 304 (October 2018), p. 1. To qualify for Home Ownership Services payments the SER group member must be an owner or purchaser of the home and the home is the SER group’s permanent, usual residence. ERM 304, p. 4. MDHHS is to verify home ownership. ERM 304, p. 6-7. Here, MDHHS did not notify Petitioner, in writing, that she needed to verify her home ownership or that the home was not her usual, permanent residence. MDHHS is to require documentation or other evidence to establish the accuracy of client’s verbal or written statements. BAM 130 (July 2024), p. 1. Since MDHHS did not request any verification prior to determining Petitioner’s eligibility based on home ownership and permanent residency, MDHHS did **not** act in accordance with policy in denying the SER application for assistance with property taxes and mortgage.

Energy Services: Heat/Electricity:

Petitioner disputes the denial of her SER Application for Energy Services-Heat and Electricity due to a lack of emergency and enrollment in the LSP program. SER is a program which assists individuals and families with their household heat and electric costs. ERM 301 (October 2020), p. 1. To be eligible, the applicant must have an energy crisis defined as an individual or household that has a past due account or shut-off notice on an energy bill for his or her household. ERM 301. The DTE Energy account for Petitioner’s residence lists that a recent payment had been made to her account in the amount of \$4,000.00, causing MDHHS to conclude that she was not in jeopardy of losing services. Additionally, Petitioner was also enrolled in DTE Energy’s Low Income Self-Sufficient Plan (LSP), further supporting that she was not in danger of losing utilities. Per ERM 301, p. 3, households that are currently enrolled in a provider-sponsored affordable payment plan, such as DTE Energy’s Low Income Self-Sufficiency Plan (LSP), are not eligible for SER energy services. Therefore, MDHHS acted in accordance with policy when denying Petitioner’s request for Heat and Energy Services in the [REDACTED], 2021 application.

STATE DISABILITY ASSISTANCE:¹

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

To receive SDA, a person must be disabled, caring for a disabled person, or age 65 or older. BEM 261 (April 2017), p. 1. A person is disabled for SDA purposes if she meets any of the following criteria: receives other specified disability-related benefits or services, resides in a qualified Special Living Arrangement (SLA) facility, is certified as unable to work due to mental or physical disability for at least 90 days from the onset of the disability, or is diagnosed as having Acquired Immunodeficiency Syndrome (AIDS). BEM 261, p. 1-2. The Disability Determination Service (DDS) will gather and review medical evidence and either certify or deny the disability claim based on the medical evidence. BEM 261, p. 4. MDHHS will verify the disability when required by the DDS. BEM 261, p. 5.

Here, MDHHS testified that it had concluded that Petitioner was not eligible for cash assistance under the Family Independence Program (FIP) because she had no minor children in her care but that it had not completed processing Petitioner's eligibility for cash assistance due to disability under the SDA program. However, a review of the evidence after the hearing showed that the Notice of Case Action sent to Petitioner on August 25, 2021 stated that her cash assistance Application was denied because Petitioner is not disabled. However, at the time of this decision, MDHHS had not yet sent Petitioner the Medical Determination Verification Checklist, which was not sent until September 10, 2021. Petitioner provided to MDHHS as part of her hearing request a letter from her physician stating that she has a permanent disability. This letter is stamped as received by MDHHS on September 8, 2021, after the decision to deny Petitioner's SDA Application and prior to sending her the Medical Verification Checklist. Since MDHHS did not establish that Petitioner is not disabled or give her the opportunity to submit any medical verification prior to making this determination, MDHHS has failed to satisfy their burden that they acted in accordance with policy in processing Petitioner's SDA Application.

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:

MDHHS acted in accordance with Department policy when it denied Petitioner's Application for Assistance for Heat and Electric Services and when it did not make a payment towards Petitioner's Water and Sewage bill;

¹ Note: This ALJ did state on the record that the hearing and decision will not be addressing the application for State Disability Assistance based on the belief that no negative action had been taken regarding Petitioner's SDA Application and it was still being processed. Upon further review, a negative action was sent by MDHHS and Petitioner did timely request a hearing regarding this decision in her written Hearing Request. Therefore, a decision and order have been made regarding Petitioner's SDA Application.

MDHHS did **not** act in accordance with Department policy when it denied Petitioner's Applications for property taxes and mortgage payments; and

MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's SDA Application.

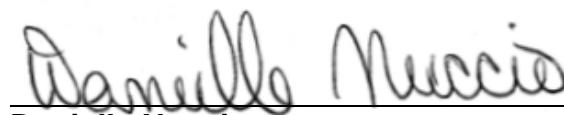
DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART AND REVERSED IN PART**.

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. Request required verification for determining Petitioner's eligibility for SER Assistance with property taxes and mortgage payments;
2. Redetermine Petitioner's SER Assistance with property taxes and mortgage payment eligibility based upon what verification is submitted;
3. Reprocess Petitioner's SDA Application based upon verification submitted;
4. If otherwise eligible, issue supplements to Petitioner for SDA and/or SER benefits not previously received; and,
5. Notify Petitioner in writing of its decision.

DN/ml



Danielle Nuccio
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-57-Hearings
BSC4
T. Bair
E. Holzhausen
L. Karadsheh
MOAHR

Petitioner – Via USPS:

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