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GOVERNOR

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

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DIRECTOR

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██████████, MI ██████████

Date Mailed: January 3, 2022  
MOAHR Docket No.: 21-004963  
Agency No.: ██████████  
Petitioner: ██████████ ██████████

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 hearing was held via telephone conference line on December 16, 2021. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by April Williams, supervisor.

**ISSUE**

The issue is whether MDHHS properly processed Petitioner's State Emergency Relief (SER) request for energy 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 ██████ ██████ ██████ Petitioner applied for SER seeking energy assistance.
2. On June 28, 2021, MDHHS approved Petitioner for \$██████ in total payments towards energy, conditional upon Petitioner submitting proof of a copayment totaling \$██████ by July 16, 2021.
3. On July 16, 2021, MDHHS received documentation from The Heat and Warmth Fund (THAW) that a \$██████ copayment would be made on Petitioner's energy account.
4. As of October 21, 2021, MDHHS had not processed the \$██████ SER payment for Petitioner.

5. On [REDACTED] [REDACTED] [REDACTED] Petitioner requested a hearing to dispute MDHHS's failure to process SER payment.

### **CONCLUSIONS OF LAW**

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS administers the SER program pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. SER policies are contained in the Emergency Services Manual (ERM).

Petitioner requested a hearing to dispute MDHHS's failure to process SER payment. A State Emergency Relief Decision Notice dated June 28, 2021, stated that Petitioner was eligible for SER energy payments totaling \$ [REDACTED] Exhibit A, pp. 7-8. The notice also informed Petitioner that the SER payment was conditional upon submitting proof of a \$ [REDACTED] copayment by July 16, 2021. Before the substance of Petitioner's dispute can be evaluated, MDHHS raised a procedural argument that could potentially preclude a substantive analysis.

A client's request for hearing must be received in the MDHHS local office within 90 days of the date of the written notice of case action. BAM 600 (January 2020) p. 6. Generally, hearing requests must be submitted to MDHHS in writing.<sup>1</sup> *Id.*, p. 2.

MDHHS contended that Petitioner's hearing request was untimely because MDHHS received Petitioner's hearing request on October 21, 2021: more than 90 days after MDHHS issued written notice of SER. Petitioner was not disputing the substance of MDHHS's decision: that she had 30 days to submit proof of copayment to receive a \$ [REDACTED] SER payment. Petitioner only disputed MDHHS's failure to comply with the decision. MDHHS did not send written notice that Petitioner allegedly failed to comply with meeting her copayment requirements. Without a sending of written notice, the 90-day timeframe for Petitioner to timely request a hearing does not apply. Thus, Petitioner timely requested a hearing, and her hearing request may be evaluated on its merits.

If the SER group meets all eligibility criteria but has a copayment, shortfall, or contribution, MDHHS is to not issue payment until the client provides proof that payment has been made or will be made by another agency. ERM 208 (December 2019) p. 5. Verification of payment must be received in the MDHHS office within the 30-day eligibility period, or no SER payment will be made, and the client will then have to reapply. *Id.* The State Emergency Relief Decision Notice must be used to inform the SER group of the amounts that they must pay and the due date for returning proof of their payment. *Id.* The deadline date is always the last day of the 30-day eligibility period regardless of when the client requests the service. *Id.*

The only substantive dispute was whether Petitioner submitted sufficient proof of SER copayment. On the 30<sup>th</sup> day following Petitioner's application, MDHHS received

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<sup>1</sup> Requests for Food Assistance Program (FAP) benefit hearings may be made orally. *Id.*

documentation that THAW would pay a copayment of \$ [REDACTED] on Petitioner's energy account. Exhibit A, p. 10. MDHHS rejected the document as proof of copayment because the document erroneously listed a breakdown of the payment as \$ [REDACTED] towards heat and \$ [REDACTED] towards electricity.

MDHHS contended that a breakdown of heat and electricity copayments is critical and that the erroneous copayment amounts justified not processing SER payment. MDHHS testified that a processing of SER requires inputting the specific amounts that are to be paid towards heat and electricity and that any difference between inputted and verification amounts would be improper. MDHHS's contention has some merit but is ultimately unpersuasive.

Persons making energy payments do not breakdown their payments between electricity and heat. If Petitioner had simply submitted to MDHHS a receipt for her total copayment, MDHHS surely would not have rejected the receipt for lacking a breakdown verifying the amounts to be paid towards heat and electricity. This consideration raises doubts about the necessity of electricity and heat breakdowns.

MDHHS also did not need to simply reject the THAW document as verification of copayment. If MDHHS had doubts about the copayment, it could have contacted THAW and/or Petitioner to resolve any auditing concerns it had.<sup>2</sup> No evidence suggested that MDHHS attempted to resolve concerns about Petitioner's verification. In fact, Petitioner credibly testified that her specialist advised her that she verified copayment and that SER payment would be made.

During the hearing, MDHHS verified that Petitioner's energy account included a payment of \$ [REDACTED]. Thus, there is no ongoing doubt concerning the copayment amount.

Given the evidence, MDHHS improperly failed to issue SER payment to Petitioner. As a remedy, Petitioner is entitled to the processing of SER payment.

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<sup>2</sup> In MDHHS's defense, it may have been pressed for time because it did not receive proof of copayment until the last day that Petitioner could timely submit proof. However, MDHHS should have still been able to process the SER payment after the 30<sup>th</sup> day.

**DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly failed to issue SER energy payment. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's SER payment subject to the finding that Petitioner timely verified proof of a \$ [REDACTED] copayment; and
- (2) Issue notice, if any, and SER payment accordingly.

The actions taken by MDHHS are **REVERSED**.

CG/nr



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**Christian Gardocki**  
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

