



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: July 7, 2022
MOAHR Docket No.: 22-002418
Agency No.: ██████████
Petitioner: ██████████

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 June 30, 2022. The Petitioner appeared and represented herself. A representative from the Department of Health and Human Services (MDHHS) did not appear for the hearing and the hearing was held in the absence of the Department.

Petitioner agreed to the admission of the 22-page hearing packet submitted by MDHHS prior to the hearing. These documents were admitted into evidence as Exhibit A.

ISSUE

Did MDHHS 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 ██████████ 2022, Petitioner applied for SER for homeowner’s insurance, home repairs, and furnace repairs (Exhibit A, pp. 7-12).
2. On May 9, 2022, MDHHS issued a SER Verification Checklist to Petitioner, requesting that she submit verification of the amount of SER non-energy home repairs, SER home livable from a licensed provider, amount for SER energy-related home repairs, and verification of SER energy efficiency from a licensed provider. The requested verification information was due to MDHHS by May 16, 2022 (Exhibit A, pp. 19-20).

3. On May 16, 2022, Petitioner submitted to MDHHS a property tax statement from 2021, a water bill dated November 22, 2021, a Nationwide insurance reinstatement offer dated January 10, 2022, a copy of her personal identification, and a DTE energy bill from an unknown time period (Exhibit A, p. 1).
4. On May 19, 2022, MDHHS issued a State Emergency Relief Decision Notice to Petitioner, informing her that her application was denied for failure to submit verification of SER energy efficiency, amount for SER energy-related home repairs, amount for SER non-energy home repairs, and that a service requested is not covered under SER policy (Exhibit A, pp. 13-15).
5. On May 31, 2022, MDHHS received a timely submitted hearing request from Petitioner, disputing the denial of her SER application (Exhibit A, pp. 3-5).

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.

A MDHHS representative did not participate in the hearing. The hearing summary prepared by MDHHS was read into the record, stating that:

The client is requesting a hearing for Denied SER application. The client applied for SER requesting assistance with furnace repair, home repair, and home insurance (Exhibit 1 SER Application). The client was mailed a 3503 SER verification checklist 05/09/2022 requesting information needed to process the application with a due date of 05/16/2022 (Exhibit 2 DHS-3503 SER Verification Checklist). On May 16, 2022, the client returned a property tax statement from 2021, a water bill dated 11/22/2021, a Nationwide insurance reinstatement offer dated 01/10/2022, a copy of her ID and with DTE energy bill (Exhibit 3 Information returned by the client 05/16/2022). The client failed to return the required information by the due date. The application was denied 05/19/2022 and the client was notified of the case action (Exhibit 4 DHS – 1419 SER Decision Notice).

SER assists with home repairs to correct unsafe conditions and restore essential services. The following services are covered:

1. Home ownership services, including house payments, property taxes and fees, and house insurance premiums that are required pursuant to the terms of a mortgage or land contract.
2. Energy-related home repairs.
3. Non-energy-related home repairs.

Authorization for 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 home park regulation. The repair(s) must restore the home to a safe, livable condition. SER does not pay for improvements or nonessential repairs. ERM 304 (October 2021), pp. 1-3.

In this case, Petitioner's SER application was denied for failure to submit verification of SER energy efficiency, failure to submit the amount for SER energy-related home repairs, failure to submit the amount for SER non-energy home repairs, and that a service requested is not covered under SER policy. MDHHS failed to present the verification information that Petitioner submitted. Petitioner testified that she timely submitted documents to MDHHS and was not notified that those documents were insufficient until receiving the application denial notice on May 19, 2022. MDHHS failed to appear to the scheduled hearing to testify as to what Petitioner submitted and why those documents would not be sufficient under policy to process Petitioner's SER application. MDHHS must prove at administrative hearings that they acted in accordance with policy in the case action taken. In this case, MDHHS has not shown that the denial of Petitioner's SER application was in accordance with 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SER application.

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. Reprocess Petitioner's [REDACTED] 2022 SER application;
2. If Petitioner is eligible for benefits, issue supplements to Petitioner for any SER benefits she was eligible to receive but did not;

3. Notify Petitioner of its decision in writing.



DN/mp

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-Electronic Mail :

DHHS
MDHHS-Wayne-76-Hearings
E. Holzhausen
MOAHR
T. Bair
BSC4

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]