



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: December 6, 2022
MOAHR Docket No.: 22-004887
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 1, 2022. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Pamela Carswell, supervisor.

ISSUE

The issue is whether MDHHS properly denied Petitioner's State Emergency Relief (SER) applications requesting 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. As of September and October 2022, Petitioner was enrolled in the Shutoff Protection Plan (SPP) with her energy provider.
2. As of September and October 2022, Petitioner had no past-due amount with her energy service provider.
3. On [REDACTED], 2022, Petitioner applied for SER seeking assistance with an energy bill (SER- Energy).
4. On October 4, 2022, MDHHS denied Petitioner's SER application due to not having a past-due shut-off amount.
5. On October 11, 2022, Petitioner reapplied for SER- Energy.

6. On October 17, 2022, MDHHS denied Petitioner's SER application due to not having a past-due shut-off amount.
7. On October 19, 2022, Petitioner, for a third time, applied for SER- Energy.
8. On October 20, 2022, Petitioner requested a hearing to dispute the denial of her SER applications.
9. As of December 1, 2022, the date of an administrative hearing, MDHHS had not processed Petitioner's SER application dated October 19, 2022.

CONCLUSIONS OF LAW

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. SER policies are contained in the Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute the denial of SER- Energy applications. Exhibit A, pp. 3-4. MDHHS denied Petitioner's applications dated September 21 and October 4, 2022. MDHHS sent Petitioner Application Eligibility Notices dated October 4 and October 17, stating Petitioner was denied due to an absence of a shut-off threat.¹

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. ERM 301 (October 2022) p. 4. The amount of the payment is the minimum necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. *Id.* Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. *Id.* Current bills that are not subject to shutoff should not be included in the amount needed. *Id.*

Documentation from Petitioner's energy provider listed Petitioner's energy account balances. Exhibit A, p. 6. Petitioner's "current" bills totaled \$959; however, Petitioner had credits to past-due amounts reducing the total account balance to \$636.84. A negative past-due amount is consistent with an account not being in past-due or shut-off status.

The evidence did not establish that Petitioner's energy account was in past-due status or in any threat of shut-off. Without such evidence, MDHHS properly denied Petitioner's SER applications.

¹ MDHHS also contended that Petitioner was properly denied because Petitioner was enrolled in Shutoff Protection Plan (SPP) with her energy provider. SER may be used to assist a household who is enrolled in SPP if all other eligibility requirements are met. ERM 301 (October 2022) p. 4. Thus, Petitioner's enrollment in SPP would not be a proper basis for denying SER.

More than the denial of SER, Petitioner expressed displeasure with the notice sent by MDHHS to deny SER. Petitioner explained that MDHHS should have sent a State Emergency Relief Decision Notice (aka DHS-1419) which is accepted by third party agencies who help clients with energy bills when MDHHS denies SER. MDHHS testimony acknowledged that it sent Petitioner Application Eligibility Notices (aka DHS-1150) to deny Petitioner's SER applications.

Generally, the DHS-1419 must be sent to the client for every energy request. ERM 301 (October 2022) p. 8. The notice must include the required payment amounts to inform the client of their obligation. *Id.* The DHS-1150, Application Eligibility Notice, may be used to notify a client of a denied SER request and must be issued in instances where no DHS-1419 is generated through Bridges. *Id.* Because a DHS-1150 is an acceptable notice form, MDHHS did not err in denying Petitioner's SER applications dated September 21 and October 4, 2022.²

Petitioner also submitted a third SER application to MDHHS on October 19, 2022. MDHHS testimony acknowledged that Petitioner's SER application was never registered or processed.

The SER standard of promptness is 10 business days, beginning with the date the signed SER application is received in the local office. ERM 103 (October 2022) p. 5. The case record must include documentation for any delay in processing the application beyond the standard of promptness. *Id.*

Petitioner requested a hearing only one day after applying for SER for a third time. Because only one day had passed, Petitioner could not have requested a hearing to dispute the processing, or absence of processing of her third SER application. However, over one month had passed since Petitioner applied without MDHHS processing Petitioner's application. Under the circumstances, ordering MDHHS to process Petitioner's unregistered SER application is proper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's SER applications requesting energy services dated September 21 and October 4, 2022. Concerning the SER applications dated September 21 and October 4, 2022, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS violated its standard of promptness concerning Petitioner's SER application dated October 19, 2022. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

² Though MDHHS may send notice of SER denial with a DHS-1150, Petitioner specifically sought notice via DHS-1419. As a courtesy, MDHHS should factor Petitioner's reasonable request in processing future SERs.

- (1) Register and process Petitioner's SER application dated October 19, 2022; and
- (2) Issue notice in accordance with policy.

Concerning Petitioner's SER application dated October 19, 2022, the actions taken by MDHHS are **REVERSED**.

CG/mp



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

Via-Electronic Mail :

DHHS
MDHHS-Wayne-57-Hearings
E. Holzhausen
K. Schulze
MOAHR
BSC4

Via-First Class Mail :

Petitioner

[REDACTED]
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[REDACTED], MI [REDACTED]