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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: March 21, 2023  
MOAHR Docket No.: 23-000466  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 February 23, 2023, from Detroit, Michigan. Petitioner was not present for the hearing. Petitioner was represented by ██████████ Authorized Hearing Representative (AHR). The Department of Health and Human Services (Department) was represented by Crystal Hackney, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly process and deny Petitioner's request for State Emergency Relief (SER) 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 or around ██████████ 2022, Petitioner submitted an application for SER assistance requesting a furnace repair/replacement.
2. On or around December 13, 2022, the Department sent Petitioner an Application Notice advising her that the application was denied because an incorrect application form was used to request SER assistance.
3. On or around ██████████ 2022, Petitioner submitted an electronic application requesting SER assistance with a furnace repair/replacement. (Exhibit A, pp. 7-14)
4. In processing the December 16, 2022, SER application it was determined that the owners of the home in which the furnace repair/replacement was requested were ██████████ and ██████████. It was also established that on or around

██████████ 2022, Petitioner, and her husband ██████████ executed a Life Lease Agreement with the owners of the home, that was to end upon proper Early Termination of the lease agreement or upon the death of the Tenant. (Exhibit A, pp. 15-25)

5. On or around December 19, 2022, the Department sent Petitioner a State Emergency Relief Decision Notice, advising her that her request for SER assistance was denied because a group member is not the owner or purchaser of the home. (Exhibit A, pp. 27-28)
6. On or around ██████████ 2023, Petitioner requested a hearing disputing the denial of the SER application. With the request for hearing, Petitioner submitted a copy of the Department's website, which indicated that a life lease met the ownership criteria to receive home repairs. (Exhibit A, pp. 3-6)
7. The Department requested clarification from its SER Policy Department and was advised that the Emergency Relief Manual (ERM) was updated in 2008, and the life lease ownership information was removed. The Department conceded that the information on the Department's website was outdated. (Exhibit A, pp. 29-31)

### **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.

SER assists with home repairs to correct unsafe conditions and restore essential services. ERM 304 (October 2021), p. 1. The Low-Income Home Energy Assistance Program (LIHEAP) is the funding source for energy-related repairs. Repair or replacement of a non-functioning furnace is currently the only allowable energy-related home repair. The lifetime maximum for energy-related home repairs is \$4,000. ERM 304, pp. 2-3. The eligibility requirements for home ownership services including energy related home furnace repairs/replacement are outlined in ERM 304, at pp. 108. As a condition of eligibility, among other criteria, an SER group member must be the owner or purchaser of the home or hold a life estate on the home with the responsibility for home repairs. ERM 304, pp. 4-5.

Additionally, SER provides immediate assistance to meet a current emergency. ERM 210 (October 2021), p. 1. The SER Glossary defines emergency as a situation in which immediate action is necessary to prevent serious harm or hardship. Emergency Relief

Glossary (ERG) (February 2017), p. 5. Having an emergency which threatens the health or safety of an individual that can be resolved through the issuance of SER is a requirement of receiving assistance. ERM 101 (March 2013), p. 1.

In this case, Petitioner disputed the denial of the SER requests for assistance with furnace repair/replacement. While the Department conceded that the December 13, 2022, Application Notice identified an incorrect denial reason, the Department asserted that both the December 9, 2022, and December 16, 2022, SER applications would have been denied because Petitioner did not meet the home ownership criteria identified in ERM 304. The Department representative testified that after further clarification from the SER Policy department, Petitioner's Life Lease does not meet the ownership requirements outlined in the ERM 304 and thus, she is ineligible for assistance with home repairs.

Effective April 2008, all references to Life Leases were removed from policy. State Emergency Relief Bulletin (ERB) 2008-003 (April 2008), p. 4. Therefore, life leases are not sufficient proof of ownership for purposes of SER eligibility. The Department representative acknowledged that the information reviewed from the Department website by Petitioner/Petitioner's AHR contained outdated information, which as of the hearing date, had been updated to accurately reflect the removal of the life lease language.

Petitioner's AHR disputed the denials and asserted that neither he, nor Petitioner were ever notified that eligibility would be based on the information in ERM 304. Petitioner's AHR asserted that the applications were submitted based on eligibility information reviewed from the Department's website and because the Department failed to properly and timely update its website, Petitioner was given erroneous eligibility information.

As referenced above, the Department's most up to date policies for the State Emergency Relief program are contained in the Emergency Relief Manuals. While it is noted that the Department failed to properly update its public website, the Department is to rely upon the policies outlined in the Emergency Relief Manuals. Therefore, upon review of ERM 304, Petitioner's Life Lease does not meet the home ownership criteria and thus, she is ineligible for SER assistance with furnace repair/replacement. As such, the Department acted in accordance with Department policy when it denied Petitioner's December 9, 2022, and December 16, 2022, SER applications.

Furthermore, during the hearing, it was established that on or around January 24, 2023, Petitioner's furnace repair/replacement had been completed without the assistance of the SER program. While Petitioner's AHR asserted this caused significant hardship to Petitioner, as the repairs were made using her Petitioner's own funds, the evidence established that the emergency was resolved with the completion of the furnace repair/replacement. Because the SER emergency has been resolved and reimbursement of services is not covered under SER policy, no SER payment can be made by the Department towards Petitioner's request for assistance, even if the application had been improperly denied.

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 acted in accordance with Department policy when it denied Petitioner's request for SER assistance.

**DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

ZB/ml

  
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**Zainab A. Baydoun**  
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**  
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**Interested Parties**  
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**Via First Class Mail :**

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**Petitioner**

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