



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: March 23, 2023  
MOAHR Docket No.: 23-000753  
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 March 20, 2023. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Danielle Moton, Assistant Payments Worker.

At the hearing, Petitioner waived her right to receiving and reviewing the 23-page hearing packet prior to the hearing and the packet was entered into evidence as MDHHS’s Exhibit A. Petitioner submitted into evidence Petitioner Exhibit 1.

**ISSUE**

Did MDHHS properly deny Petitioner’s State Emergency Relief (SER) application?

**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 ██████████ 2023, Petitioner applied for SER for assistance in the repair or replacement of her hot water heater (home repairs). Petitioner noted on her application that ██████████ may act as her Authorized Representative (AR) (Exhibit A, pp. 10-15).
2. On January 27, 2023, MDHHS issued a Notice of Case Action to Petitioner, informing her that her SER application was denied because her home cannot be brought to livable condition (Exhibit A, pp. 21-23).

3. On February 7, 2023, MDHHS received Petitioner's timely submitted hearing request, disputing the denial of her SER application (Exhibit A, pp. 4-6).

### **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 helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. SER also assists with home repairs to correct unsafe conditions and restore essential services. SER funds can provide for non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement, including payments towards the hot water heater. 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. ERM 304 (October 2021), p. 1. In order to qualify for SER for hot water heater repair, all of the following conditions must be met:

- An SER group member is an owner or purchaser of the home, or holds a life estate on the home with the responsibility for home repairs.
- The home is the SER group's permanent, usual residence.
- The home is not listed for sale.
- The home is not in jeopardy of loss (this only applies to home repairs).
- The ongoing cost of maintaining the home is affordable to the SER group.
- The SER group did not cause the emergency.
- **The home is in livable condition and payment will guarantee safe, sanitary shelter both now and in the future. Do not approve any home ownership services payments for homes that are not in a livable condition or cannot be brought to a livable condition within the remaining SER home repair limit.**
- The total amount of tax arrearage for all years does not exceed \$2,000 (this only applies to home ownership for taxes).
- The amount to be authorized does not exceed the home ownership services maximum of \$2,000, the energy-related home repair maximum of \$4,000 or the non-energy-related home repair maximum of \$1,500, and the issuance amount will resolve the emergency.

ERM 304, pp. 4-5 (Emphasis added).

In this case, MDHHS denied Petitioner's SER application due to her home being deemed unlivable. In support of their decision, MDHHS presented a Case Comment from January 27, 2023, in which Caseworker Williams noted that AR stated that Petitioner recently purchased her house, it has been condemned, and the City of Lincoln Park had given Petitioner a list of repairs she is required to complete to make the house up to code and livable. Neither Caseworker Williams nor AR testified at the hearing to verify the accuracy of this Case Comment. Petitioner denies that AR made this statement and vehemently states that her home is livable. Petitioner presented the documentation that she has received from the City of Lincoln Park, stating that her house has been inspected and is non-compliant with the 2015 International Property Maintenance Code. The inspector noted the various repairs that must be made to the house, most of which are regarding the exterior. See Exhibit 1, pp. 1-3. No documentation was presented by MDHHS stating that the house is unlivable. MDHHS relied solely on the conversation between Caseworker Williams and AR in making its decision to deny Petitioner's SER application.

In contested cases before the Michigan Administrative Hearing System, "the rules of evidence as applied in a nonjury civil case in circuit court shall be followed as far as practicable, but an agency may admit and give probative effect to evidence of a type commonly relied upon by reasonably prudent men in the conduct of their affairs." MCL 24.275. Hearsay is generally not admissible in nonjury civil cases in Michigan. "'Hearsay' is a statement, other than the one made by the declarant while testifying at the trial or hearing, offered in evidence to prove the truth of the matter asserted." Michigan Rule of Evidence 801(c). Hearsay is not admissible except as specifically provided for in the Michigan Rules of Evidence. Michigan Rule of Evidence 802. However, in contested cases before the Michigan Administrative Hearing System, only admissible evidence, such as eyewitness testimony, may be considered.

In this case, MDHHS failed to present any admissible evidence that Petitioner's house is unlivable. Instead, MDHHS based their decision on inadmissible hearsay. Therefore, MDHHS has failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SER application due to her house being unlivable.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SER application.

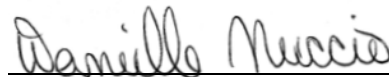
**DECISION AND ORDER**

Accordingly, MDHHS' 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] 2023 SER application in accordance with Department policy and consistent with this hearing decision;
2. If Petitioner is eligible for benefits, issue supplements to Petitioner for any SER benefits she was eligible to receive but did not from [REDACTED] 2023 ongoing;
3. Notify Petitioner of its decision in writing.

DN/mp



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**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-17-hearings  
E. Holzhausen  
K. Schulze  
MOAHR  
BSC4

**Via-First Class Mail :**

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