



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: August 29, 2023
MOAHR Docket No.: 23-004056
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 on August 10, 2023. Petitioner appeared and represented himself. Sara Estes, Assistance Payments Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly approve Petitioner's application for State Emergency Relief (SER) services?

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 June 21, 2023, Petitioner applied for SER services for housing assistance to prevent eviction (Exhibit A, p. 10). Petitioner provided MDHHS with an eviction judgment from the 67TH Judicial District Court (Exhibit A, p. 14). The judgment indicated that the Plaintiff landlord had the right to recover possession of the property, and the rent due to retain possession was \$██████████ including fees (Exhibit A, p. 14).
2. On June 28, 2023, MDHHS processed and approved the SER application for rent to prevent eviction in the amount of \$██████████ (Exhibit A, p. 3). MDHHS also approved an income copayment waiver in the amount of \$██████████ (Exhibit A, p. 3).

3. On June 29, 2023, an MDHHS worker spoke with Petitioner by phone and told him that his request for SER services was approved, and that MDHHS would pay \$[REDACTED] towards his back rent, provided that Petitioner made a copayment of \$[REDACTED] for a total of \$[REDACTED] (Exhibit A, p. 3).
4. On June 29, 2023, MDHHS issued an SER Decision Notice indicating that MDHHS would pay \$[REDACTED] towards the rent to prevent eviction and that Petitioner was responsible for a copayment in the amount of \$[REDACTED] (Exhibit A, p. 6).
5. On June 30, 2023, an MDHHS manager approved the use of Emergency Services (ES) funds to partially cover Petitioner's copayment (Exhibit A, p. 3).
6. On July 3, 2023, Petitioner submitted proof that he paid \$[REDACTED] to his landlord (Exhibit A, pp. 3, 23). MDHHS authorized a payment of \$[REDACTED] in SER funds to equal \$[REDACTED] and resolve the emergency (Exhibit A, pp. 3-4). Petitioner borrowed money to satisfy the copayment.
7. On July 5, 2023, MDHHS rescinded authorization of ES funds because Petitioner already paid the copayment amount (Exhibit A, p. 4).
8. July 10, 2023, Petitioner requested a hearing to dispute the rescission of the ES funds to cover the copayment.

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. SER is administered by MDHHS pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, MDHHS approved Petitioner for SER funds to prevent eviction. Based on the court order, MDHHS approved Petitioner for \$[REDACTED]. In order to obtain the \$[REDACTED] Petitioner was required to make a \$[REDACTED] copayment. Simultaneously MDHHS considered Petitioner for ES funds to partially cover Petitioner's copayment. MDHHS approved the use of ES funds for the SER copayment in the amount of \$[REDACTED]. However, Petitioner contacted MDHHS by telephone and a worker mistakenly told Petitioner that he was approved for \$[REDACTED] in SER funds and that he needed to pay a copayment of \$[REDACTED] in order to receive the SER funds. Petitioner borrowed money and paid his landlord \$[REDACTED] (Exhibit A, p. 23). MDHHS rescinded its approval of ES funds to cover the copayment because Petitioner already satisfied the copayment. MDHHS also reduced the amount of SER funds that it provided because Petitioner paid more than the copayment required.

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits and moving expenses. ERM 303 (October 2022), p. 1. The SER issuance amount must resolve the group's shelter emergency. *Id.* MDHHS can authorize any combination of the following services: moving expenses (to relocate household effects), security deposit (if required), first month's rent and rent arrearage. *Id.* Court costs and fees included in a judgment is an allowable cost for a rent to prevent eviction request. *Id.* To be eligible for SER, the individual must be homeless, at risk of homelessness or meet eligibility requirements for the Family Re-Housing Program or the Rural Homeless Permanent Supportive Housing initiative. *Id.*, p. 2.

MDHHS requires clients to provide a court summons, order or judgment resulting from an eviction action to prove eligibility based on imminent risk of homelessness. *Id.* The court summons, order or judgment issued must result in the SER group being homeless. *Id.* A demand for possession for non-payment of rent or a notice to quit is not sufficient. *Id.*, p. 6. MDHHS can also accept legal notice form a local public agency ordering a group to vacate condemned housing. *Id.*

Emergency Services (ES) funds are allocated to each local office to provide assistance when SER will not cover the requested service, or the SER payment will not resolve the emergency. ERM 209 (October 2022). A SER application must be submitted, and eligibility must be determined prior to any service or cost being paid using ES funds. *Id.* SER should be authorized whenever the household qualifies for a benefit through the SER program. *Id.* Since ES is a funding source, this is not a program that the client can apply for directly. *Id.* The issuance of ES funding is made in conjunction with the submission of an SER application, at the local office's discretion. *Id.* ES funds may be used to expand payment maximums if all other eligibility requirements have been met. *Id.*

ES funds may be used prevent eviction and can cover rental payments and security deposits. ERM 209, p. 3. ES funds may not be used to reimburse a provider, individual or MDHHS employee. *Id.*, p. 2.

Here, MDHHS advised Petitioner to make the copayment to his landlord. Petitioner followed MDHHS' instructions and made the copayment, even though he had to borrow money to do so. MDHHS erred in instructing Petitioner to make the copayment and by issuing the June 29, 2023 SER Decision Notice prematurely. However, policy is clear that ES funds cannot be used to reimburse an individual. ERM 209, p. 2. This is an unfortunate situation in which MDHHS' communication error harmed Petitioner financially. Nevertheless, the undersigned is unable to order MDHHS to issue ES Funds to reimburse Petitioner for the copayment that he made because policy forbids it. Additionally, Petitioner's copayment was more than what was required, and thus, MDHHS reduced his SER payment to equal the amount to resolve the emergency. This was also done according to policy, which requires that risk of homelessness be demonstrated by a judgment, eviction order or court summons. ERM 303, pp. 5-6. Because the amount needed on the judgment to prevent eviction was \$ [REDACTED] MDHHS appropriately reduced SER funds issued to the difference between what

Petitioner paid to the landlord as a copayment and the amount needed to prevent eviction.

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 acted in accordance with Department policy when it approved Petitioner for SER funds to prevent eviction.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.



Linda Jordan
Administrative Law Judge

LJ/tm

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
Janice Collins
Genesee County DHHS Union St
District Office
125 E. Union St 7th Floor
Flint, MI 48502
**MDHHS-Genesee-UnionSt-
Hearings@michigan.gov**

Interested Parties

J. McLaughlin
E. Holzhausen
BSC2

Via-First Class Mail :

Petitioner

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