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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

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Date Mailed: September 22, 2023
MOAHR Docket No.: 23-004486
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 24, 2023 via teleconference. Petitioner appeared and represented herself. Kimberly Reed, Lead Worker, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department).

ISSUE

Did MDHHS properly process Petitioner's Request 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 December 15, 2022, Petitioner applied for SER for assistance with home repairs and furnace repairs (Exhibit A, pp. 21-23). Also on December 15, 2022, Petitioner provided MDHHS with a letter from the United States Department of Agriculture (USDA) stating that she was approved for home repair financing up to \$10,045.00 (Exhibit A, p. 28).
2. On January 4, 2023, MDHHS sent Petitioner a State Emergency Relief Decision Notice indicating that she was approved for furnace repair/replacement and repairs made to the basic structure (Exhibit A, p. 8). The Notice indicated that MDHHS would pay \$██████████ for the furnace repair replacement, which would leave a \$██████████ payment for Petitioner and that MDHHS would pay \$██████████ towards

the structural repairs, leaving a \$ [REDACTED] payment for Petitioner (Exhibit A, p. 8). The notice indicated that MDHHS would not make a payment until it received confirmation that Petitioner made her portion of the payment (Exhibit A, p. 9). The notice further indicated that MDHHS must receive proof of the Petitioner's payment by January 14, 2023 (Exhibit A, p. 9).

3. MDHHS did not make the payment to Petitioner's service providers due to not receiving verification of Petitioner's payment.
4. On July 20, 2023, Petitioner filed a Request for Hearing to dispute MDHHS' actions regarding her application for SER services (Exhibit A, pp. 5-7).

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 MDHHS pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, Petitioner applied for SER for assistance with furnace and a hot water heater, vent kit and water lines. MDHHS approved Petitioner's request and required a copayment to be made by Petitioner before releasing the funds. MDHHS alleged that it did not receive proof that the copayment was made, and so it did not release the approved payments.

The purpose of the SER program is to prevent serious harm to individuals and families by assistant applicants with safe, decent, affordable housing and other essential needs when an emergency arises. ERM 101 (March 2013), p. 1. Applicants must meet all financial and non-financial requirements and have an emergency which threatens health or safety and can be resolved through the issuance of SER. *Id.* Prior to approval, certain conditions must be met. Prior written or oral approval must be given by an authorized department staff person before SER issuance. Low-income households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (December 2022), p. 1. MDHHS can provide assistance if the household is facing an energy crisis, which includes situations in which the furnace is inoperable and in need of replacement. *Id.*, p. 2. MDHHS can also authorize non-energy-related repairs including repairs made to the hot water heater. ERM 304 (October 2021), p. 3.

Before authorizing MDHHS' portion of the cost of services, MDHHS must verify that the client contribution has been paid by the client or will be paid by another agency. ERM 301 (December 2022), p. 11.

At the hearing, Petitioner explained that she secured a loan from the USDA to satisfy her portion of the copayment. She provided proof of the loan verification letter to MDHHS and thought that she had satisfied the requirement. USDA paid the copayment amount directly to Petitioner's service providers. MDHHS testified that the documentation that Petitioner submitted regarding the copayment was insufficient, and therefore, it did not release the payment.

However, there is no evidence that MDHHS informed Petitioner that the documentation that she submitted was insufficient or that it attempted to verify the information with the USDA. MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (January 2022), p. 1. Verification is usually required at application/redetermination and when a reported change affects eligibility or benefit level. *Id.* To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.*, p. 3. The client must obtain the requested verification, but the local office must assist the client if they need and request help. *Id.*, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS must use the best available information. *Id.*

Given that the copayment was provided by a third party, MDHHS should have informed Petitioner that the documentation that she submitted was insufficient and/or attempted to verify the information with the USDA or Petitioner's service providers. Additionally, policy provides that MDHHS verify that the copayment has been paid or *will be paid* by another agency. ERM 208 (October 2021), p. 5. It is unclear why the letter from USDA does not satisfy this requirement.

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 failed to submit approved SER payments to Petitioner's service providers.

DECISION AND ORDER

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

MDHHS 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. Reregister and reprocess Petitioner's December 15, 2022 SER Application, requesting additional information from Petitioner or a third-party regarding required copayments, if necessary.
2. Issue payments to Petitioner or her service providers for SER funds that she was eligible to receive, but did not based on the December 15, 2022 SER Application; and
3. Notify Petitioner of its decision in writing.



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
Kimberly Reed
Montcalm County DHHS
609 North State Street
Stanton, MI 48888
**MDHHS-Montcalm-
Hearings@michigan.gov**

Interested Parties

J. McLaughlin
E. Holzhausen
BSC3

Via-First Class Mail :

Petitioner

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