



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

MARLON BROWN
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 26, 2024
MOAHR Docket No.: 24-008411
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 23, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's State Emergency Relief (SER) eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner submitted three applications to the Department on [REDACTED] 2024; [REDACTED] 2024; and [REDACTED] 2024 seeking assistance with heat, electric, and water bills.
2. On April 12, 2024, the Department issued an SER Verification Checklist (VCL) requesting proof of the need for SER services and the amount of SER services via a shutoff notice, overdue notice, bill, fax or email from provider, or DHS-223 form with a due date of April 19, 2024.
3. On April 22, 2024, the Department issued a State Emergency Relief Decision Notice (SERDN) indicating that her request for water assistance had been denied because she had not proven that she had made the minimum required payments to be eligible for water assistance (\$8.00 every month).

4. Another notice was issued in error approving Petitioner for SER assistance with heat and electric. The error occurred because no verifications had been received from Petitioner.
5. On July 19, 2024, the Department received Petitioner's request for hearing disputing the Department's actions with respect to her SER applications.

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.

In this case, Petitioner disputes the Department's actions with respect to her SER applications. Petitioner had applied for assistance with heat, water, and electric.

When the Department receives an application for SER, the day the application is received begins the 30-day SER eligibility period. Any applications received in that 30-day eligibility period are decided together unless a prior application is denied in which case a new 30-day eligibility period begins. ERM 103 (October 2023), p. 2.

SER provides assistance to low-income households who meet SER eligibility criteria with heat and electric (energy services). ERM 301 (June 2024), p. 1. However, eligibility for SER energy services is contingent upon the availability of funds. MCL 400.1b(2). Effective June 15, 2024, energy services funds were exhausted and applications on or after June 15, 2024 are automatically denied. Economic Stability Administration (ESA) Memo 2024-22 (May 31, 2024). Applications dated prior to June 15, 2024, should be processed as normal regardless of their pseudo-authorization, pending verification, or pending copayments status. *Id.*

The Department issued a Verification Checklist (VCL) to Petitioner on April 12, 2024 seeking verification of shutoff or delinquency status in addition to the amount of Petitioner's need. Petitioner did not submit these verifications by the April 19, 2024 due date. However, pursuant to policy, the responsibility to verify these items is on the Department and the Department is required to use the online portal or contact the energy company directly. ERM 301, p. 11. Therefore, Department's subsequent decision that the Department had erred in the approval process because of a lack of verifications from Petitioner is not in accordance with policy.

Turning to the issue of Petitioner's water bill assistance, the Department issued a SERDN to Petitioner indicating that her water SER application had been denied because she had not provided proof that she had made the minimum payment of \$8.00 per month prior to her application. Pursuant to policy, the required payment for water and sewer services is \$0.00 and good cause is granted for each water/sewer request. ERM 302 (December 2022), p. 3. An SER group is not required to make payments in the 6 months prior to the SER application for water assistance in order to be eligible. *Id.* Therefore, the Department did not properly deny Petitioner's application for water assistance.

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 did not act in accordance with Department policy when it determined Petitioner's eligibility for heat, electric, and water SER assistance.

DECISION AND ORDER

Accordingly, the Department's 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 SER applications from [REDACTED] 2024 to determine eligibility for heat, electric, and water assistance;
2. If eligible for assistance, issue supplements to Petitioner or on her behalf for benefits not previously received;
3. If not eligible for SER assistance based upon the [REDACTED] 2024 applications, reprocess her [REDACTED] 12, 2024 SER application to determine her eligibility for heat, electric, and water assistance;
4. If eligible for assistance, issue supplements to Petitioner or on her behalf for benefits not previously received; and,
5. Notify Petitioner in writing of its decision.

AM/cc



Amanda M. T. Marler
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 :

Interested Parties

MDHHS-Oakland-6303-Hearings
BSC4-HearingDecisions
E. Holzhausen
J. McLaughlin
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]