



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR



Date Mailed: September 16, 2024
MOAHR Docket No.: 24-008996
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 telephone hearing was held on September 9, 2024. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Debney Lofton, Eligibility Specialist, and Corlette Brown, Hearings Facilitator.

ISSUE

Did Petitioner submit a timely hearing request?

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. On April 1, 2024, the Department received an Application for SER assistance with gas in the amount of \$852.46, electric in the amount of \$852.46, water in the amount of \$438.31, relocation services in the amount of \$1,100.00, security deposit in the amount of \$1,650.00, and homeowner's insurance in the amount of \$390.00.
2. On April 4, 2024, the Department issued a State Emergency Relief Decision Notice (SERDN) to Petitioner informing her that:

- Homeowner's Insurance was effectively denied because the Department indicated it would not pay anything and she had a payment obligation of \$1,650.00.
- Water and sewage were granted in the amount of \$350.00 but she had a copay of \$88.31.
- Her security deposit and relocation requests were denied because she did not have a court ordered eviction notice.
- Her heat and non-heat electric were denied because the "total of the income/asset copayment, shortfall and contribution is equal to or greater than the amount needed to resolve the emergency."

The notice also advised Petitioner that her "total copayment is \$1,738.31 and results from \$0.00 unmet required payments (shortfall), \$0.00 income/asset copayment, \$0.00 prorated amount, \$1,738.31 contributions from you and/or other sources.... No DHS payment(s) will be made for No DHS payment(s) will be made for **any service(s) any service(s)** until you provide proof that you made your payment(s) until you provide proof that you made your payment(s) shown above. If verification of your payment(s) is not returned by 04/30/204 the DHS payment(s) will not be made and you will need to reapply...." (*sic*) (Exhibit A, pp. 7-9)

3. On April 9, 2024, because of the numerous denials, Petitioner submitted a new application for SER assistance with heat and electric.
4. On April 10, 2024, the Department issued another SERDN to Petitioner advising her that she was approved for heat assistance in the amount of \$425.00 and non-heat electric in the amount of \$456.35 with no copayment. There was an additional notation that a request for homeowner's insurance assistance was denied because the service requested was not covered by policy although this type of assistance was not requested on the [REDACTED] 2024 application.
5. On April 17, 2024, the Department paid Petitioner's water bill in the amount of \$350.00.
6. On July 26, 2024, the Department received Petitioner's request for hearing disputing the Department's failure to pay her heat and electric bills as was previously indicated.

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 argues that the Department failed to pay her heat and non-heat electric bill as it had indicated would occur on the April 10, 2024 SERDN. The Department argues that because Petitioner failed to pay the copayment for relocation services, security deposit, and insurance based on the April 4, 2024 SERDN, the Department acted in accordance with policy when it failed to pay Petitioner's heat and non-heat electric. The Department also argues that Petitioner's hearing request is late because it was received more than 90 days after the April 10, 2024 SERDN.

Pursuant to policy, all hearing requests must be received by the local office within 90 days of the written notice of case action. BAM 600 (February 2024), p. 6; ERM 404 (March 2013), p. 1; ERM 102 (October 2020), p. 2. Hearing requests are granted for denial of applications or supplemental payments, reductions in the amount of benefits, suspension or termination of benefits or services, restrictions under which benefits or services are provided, and delay of any action beyond the standard of promptness. BAM 600, p. 5. The Department issued two SERDN, the first on April 4, 2024 and the second on April 10, 2024. The first SERDN discussed Petitioner's eligibility for heat and non-heat electric, water and sewer, relocation services, security deposit, and homeowner's insurance. The second SERDN only addressed Petitioner's eligibility for heat and non-heat electric as well as homeowner's insurance. Therefore, the last day to request a hearing for water and sewer, relocation services, and security deposit was July 3, 2024. The last day to request a hearing regarding heat and non-heat electric as well as homeowner's insurance was July 9, 2024. Petitioner's hearing request was submitted on July 26, 2024, the day after being verbally advised that the Department was not going to pay on its promised heat and non-heat electric payments. Because Petitioner's hearing request was received beyond the 90-day request for hearing period, Petitioner's hearing request as it relates to water and sewer, relocation services, security deposit, and homeowner's insurance, is not addressed by this decision. However, because Petitioner received a notification that her application was approved for heat and non-heat electric, and she was simply waiting on the Department to act, Petitioner had nothing to protest based upon the SERDN dated April 10, 2024. Furthermore, because she is specifically disputing the Department's failure to pay a promised benefit, Petitioner's hearing request is considered timely and evaluated below for purposes of the heat and non-heat electric portion of the SERDN.

In SER cases, the application date is the first day of the 30-day SER eligibility period. ERM 103 (October 2023), p. 2. If the application is approved, the 30-day eligibility period does not change regardless of how many service requests the client may make during that period. *Id.* If the application is denied and the client reapplies, a new 30-day period will start with the new application date. *Id.* If additional SER services are requested during the 30-day eligibility period, a new application is not needed, and the application date cannot be changed. Every additional request made during the 30-day

eligibility period on an approved application uses the same 30-day eligibility period. In this case, Petitioner's first application dated [REDACTED] 2024 was approved for water and sewage with a copay of \$88.31. Therefore, her 30-day eligibility period is April 1, 2024 through April 30, 2024 and Petitioner's second application dated [REDACTED] 2024 uses the same eligibility period.

At the hearing, the Department testified that because Petitioner had not paid the copay for her homeowner's insurance and water and sewage requests, the Department could not issue payment on her heat and non-heat electric requests despite the SERDN which approved her request. The Department erred in failing to pay the promised energy services request as indicated by the April 10, 2024 SERDN. First and foremost, the Department erred in "approving" Petitioner's "homeowner's insurance" request with a copayment of \$1,650.00. There was no actual approval for this request because the Department did not agree to pay anything. Furthermore, Petitioner was not actually seeking payment of a required homeowner's insurance premium as covered by ERM 304 (October 2021), but instead a rental insurance premium. The Department's second SERDN dated April 10, 2024 properly denied Petitioner's homeowner's insurance premium request. Therefore, there can be no required copayment for a service that Petitioner is not eligible to receive. Second, the Department authorized Petitioner's water request with a copayment of \$88.31 and notified her of the copayment with the April 4, 2024 SERDN. Thirteen days later, the Department paid Petitioner's water bill in the amount of \$350.00 as promised by the SERDN only if the copayment was paid. Therefore, the evidence suggests Petitioner paid the water copayment. Third, policy states that "[i]f multiple services are requested, the client is only required to pay the copayment on one service. However, the copayment must be paid before any other service is paid." ERM 208, p. 2. If Petitioner paid the water copayment as suggested by the Department's payment of Petitioner's water bill, she has complied with policy by making the one copayment. Furthermore, energy services have no income copayment. ERM 208 (October 2023), p. 1. Petitioner may have a copay if the amount needed to resolve the emergency is greater than the fiscal year cap of \$850.00, but the Department did not notify Petitioner of any energy related copay. Instead, the Department issued a SERDN advising Petitioner that she was eligible for energy services in the amount of \$456.35 for non-heat electric and \$425.00 in heat. For these reasons, the Department has not shown that it properly processed Petitioner's request for energy 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Petitioner's request for energy assistance.

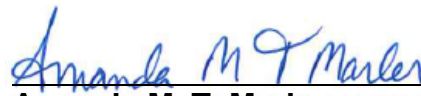
DECISION AND ORDER

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 requests from April 1, 2024, and April 9, 2024 for energy assistance;
2. If otherwise eligible, issue payments for Petitioner's requested energy services for benefits not already received; and,
3. 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-Wayne-31-Grandmont-Hearings
BSC4-HearingDecisions
E. Holzhausen
J. McLaughlin
MOAHR

Via-First Class Mail :

Petitioner

[REDACTED]
MI [REDACTED]