

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-015657
Issue No.: 5001
Agency Case No.: [REDACTED]
Hearing Date: October 21, 2015
County: MACOMB-DISTRICT 12

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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; 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 October 21, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner's Authorized Hearing Representative (AHR), [REDACTED]. The Petitioner, [REDACTED] also appeared. The Department was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny the Petitioner's State Emergency Relief (SER) application for tax relief and home repairs?

FINDINGS OF FACT

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

1. The Petitioner applied for SER assistance with property taxes and home repairs on [REDACTED].
2. The Department issued an SER Decision Notice on [REDACTED] denying the Petitioner's SER application, for the reason that the Petitioner's housing was not affordable based upon Department policy. In addition, the Petitioner did not provide the Department with any evidence that the Petitioner's property taxes were in judicial foreclosure. Exhibit D

3. The Petitioner, in her application, indicated that she had a homeowner's insurance obligation of \$150 and monthly property taxes in the amount of \$1500. The property taxes as reported were incorrect.
4. The Petitioner's household income at the time of the application was \$837 based upon \$733 in SSI received by Petitioner's daughter and \$275 received by Petitioner for home health care.
5. After the hearing request was received, the Department reviewed its SER Decision in Petitioner's case and determined that the Decision was correct but found that Petitioner's information provided on the application was different than Petitioner's provided information during the Department's post decision review. At the time the Department discussed the SER information with the Petitioner, the Department, based upon the following information when it redetermined eligibility. The Petitioner advised the Department that she paid annual property taxes of \$1,022 (\$167 monthly), a land contract payment of \$540, and homeowner's insurance of \$150 for a total housing expense of \$857.
6. The Petitioner's AHR requested a timely hearing on [REDACTED], protesting the denial of the SER application.

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, the Department denied the Petitioner's SER application for tax relief assistance and home repairs requested in the amount of \$1500 each. The Petitioner confirmed the following facts at the hearing: the SER group income was \$1022, and the SER group household expenses were \$857. Department policy found in ERM provides that applicants for SER are not eligible if their housing is not affordable. The affordability test is applied and must determine 75% of the SER group income; which in this case is \$766. ($\$1022 \times .75 = \766) If \$766 is less than the SER groups housing (shelter) expense of \$857, then the housing is determined to be not affordable. Here the Department found the Petitioner's shelter costs to be \$857, which costs are more than 75% of household income of (\$766), thus making the housing not affordable and the housing expenses exceed 75% of household income. Thus, even though the

Department's initial determination was based upon different erroneous information provided by the Petitioner, the subsequent review based upon information provided by Petitioner directly while speaking to the Department results in the same result, requiring denial of the SER application.

Housing affordability is a condition of eligibility for State Emergency Relief (SER) and applies only to Relocation Services (ERM 303) and Home Ownership Services and Home Repairs (ERM 304). Housing affordability does not apply to other SER services.

Requirements

In this item, total housing obligation means the total amount the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. Renters can have a higher total housing obligation if heat, electricity and/or water/cooking gas are included.

Note: See chart at the end of this item or ERM 100, SER Quick Reference Charts.

Authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized.

Deny SER if the group does not have sufficient income to meet their total housing obligation. The total housing obligation cannot exceed 75 percent of the group's total net countable income. ERM 207, p. 1 (October 1, 2015) p.1

Even though at the time of the hearing, the Petitioner agreed she told the Department she paid a land contract expense, the Petitioner testified at the hearing that her statement was incorrect and that she does not pay for a land contract expense and believes it is discharged. At the time the Department made its decision, the Department based its decision on information provided directly to it by Petitioner, which it was entitled to rely upon.

In addition, as regards SER assistance for property taxes, Department policy in ERM 304 requires that taxes be in tax foreclosure or sale:

Home ownership services payments are only issued to save a home threatened with loss due to:

- Mortgage foreclosure.
- Land contract forfeiture.
- Tax foreclosure or sale.
- Court-ordered eviction of a mobile home from land or a mobile home park.
- Repossession for failure to meet an installment loan payment for a mobile home.
- **The lifetime home ownership services maximum is \$2,000.** The lifetime maximum is the combined cumulative total of all home ownership service payments. Individual services (house payments, property taxes, etc.) do not have separate lifetime maximums.

ERM 304 July 1, 2 015) p.1-2

Verification of the following Property Tax Sale

Property tax sale:

- Statement from taxing authority verifying total tax arrearage, **and**
- Notice scheduling a judicial foreclosure hearing. This occurs one year after forfeiture -- generally in February.

Note: First, taxes become delinquent. Then, a year later forfeiture occurs and interest and fees increase. One year later, a circuit court hearing is held and foreclosure occurs.

Payment of taxes may be made once the client provides a notice scheduling the judicial foreclosure hearing. It is not necessary to wait until the judgment has been entered. Once a judgment has been entered, the client must make payment within 21 days of entry of the foreclosure judgment but no later than March 31.

Once the March 31 date has passed, ownership is transferred to the county and there is no redemption possible. Process the application within the SOP or by the date necessary to prevent the loss of the property, whichever is sooner.

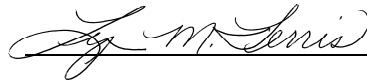
In this case, the Petitioner did not present any evidence with the SER application or at the hearing that her property taxes were in a judicial foreclosure and thus the Department properly denied the SER application regarding property tax assistance.

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 acted in accordance with Department policy when it denied the Petitioner's SER application for Home Repairs and property tax assistance due to the fact that housing was not affordable and the taxes were not in judicial foreclosure. Although not listed as a basis for denial of the SER application, the record presented at the hearing supports a denial of the SER application for tax assistance as well.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/23/2015**

Date Mailed: **10/23/2015**

LMF / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;

- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

CC:

