

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

IN THE MATTER OF:



MAHS Reg. No.: 15-015864
Issue No.: 5001
Agency Case No.:
Hearing Date: November 9, 2015
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 November 9, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by , specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's State Emergency Relief application (SER) for heat/electricity, water, energy-related home repairs, and property taxes.

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 August 19, 2015, Petitioner applied for SER for heat/electricity, water, energy-related home repairs, and property taxes.
2. Petitioner's received /month in unearned income.
3. Petitioner received for past SER home ownership services.
4. On August 20, 2015, MDHHS denied Petitioner's heat/electricity and furnace repair/purchase request because Petitioner applied outside of crisis season.

5. On August 20, 2015, MDHHS denied Petitioner's SER request for water bill assistance because Petitioner's copayment exceeded the amount requested.
6. On August 20, 2015, MDHHS denied Petitioner's property tax request because past due taxes exceeded [REDACTED]
7. On September 3, 2015, Petitioner requested a hearing to dispute the denial of all denied SER requests.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by MDHHS (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049. MDHHS policies are contained in the Services Emergency Relief Manual (ERM).

Petitioner applied for SER for 4 different SER programs. MDHHS presented a State Emergency Relief Decision Notice (Exhibits 1-2) dated August 20, 2015. The notice informed Petitioner that MDHHS denied all 4 of his SER requests.

Petitioner applied for assistance with a gas/electric bill balance. The written notice of denial verified MDHHS denied Petitioner because he applied outside of crisis season.

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (February 2015), p. 1. For energy related emergencies, the SER crisis season runs from November 1 through May 31. *Id.* Requests for those services will be denied June 1 through October 31. *Id.*

Petitioner applied for SER on August 19, 2015. It is found that MDHHS properly denied Petitioner's request with a gas/electric bill because Petitioner applied outside of crisis season.

Petitioner also applied for assistance with a furnace repair/purchase. The written notice of denial verified MDHHS denied Petitioner because he applied outside of crisis season.

The above-cited policy addressing crisis season is found within the "Energy Services" policy chapter. The policy chapter on energy services only addresses ongoing costs of heating and giving power to a home (e.g. electric bills, natural gas bills, deliverable fuel...).

Furnace repair/purchase policy is found within the "Home Ownership" policy chapter. This policy chapter encompasses assistance for property taxes, mortgage, and home repairs (distinguished between energy-related and non-energy-related repairs).

Consideration was given to whether crisis season policy applies to an energy-related repair such as a furnace repair/purchase. MDHHS prohibited clients from pursuing “energy related emergencies” during crisis season. “Energy related emergencies” seems a more broad term than “energy services”; it could reasonably be interpreted to extend to energy-related home repairs.

A finding that crisis season policy extends to energy-related repairs is further supported by an SER chart listing furnace repairs/purchases as an “energy service” (see ERM 100 (February 2015), p. 2). It is found that MDHHS properly denied Petitioner’s SER request for an energy-related home repair because Petitioner applied outside of crisis season.

Petitioner also requested a hearing to dispute a denial of SER concerning a water bill balance. MDHHS presented Petitioner’s water bill (Exhibit 4) verifying a total balance of \$ [REDACTED] and a past due amount of [REDACTED].

Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. ERM 208 (October 2014), p. 1. This is the income copayment. *Id.* A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in Exhibit I, SER Income Need Standards for Non-Energy Services. *Id.* The income-need standard for a group size of 1 is [REDACTED]. *Id.*, p. 5.

It was not disputed that Petitioner’s income was [REDACTED]. Subtracting the income-need standard from Petitioner’s income results in an income copayment of [REDACTED]. The copayment exceeds Petitioner’s water bill balance. When a copayment exceeds the amount requested, it is appropriate to deny the SER. It is found that MDHHS properly denied Petitioner’s SER application concerning a water bill balance.

Petitioner lastly disputed a denial of property tax assistance. The State Emergency Relief Decision Notice stated the basis for denial was that Petitioner’s past due taxes exceeded [REDACTED]. It is plausible that Petitioner was properly denied for having past dues taxes exceeding [REDACTED] however, this basis for denial was not mentioned during the hearing. Insufficient evidence was presented to justify an SER denial for this reason. Instead, MDHHS testified that the basis for denial was Petitioner already received the maximum lifetime limit of SER for property taxes.

The lifetime home ownership services maximum is [REDACTED]. ERM 304 (October 2013), p. 2. The lifetime maximum is the combined cumulative total of all home ownership service payments. *Id.* Individual services (house payments, property taxes, etc.) do not have separate lifetime maximums. *Id.*

MDHHS presented a document (Exhibit 3) listing Petitioner received [REDACTED] toward his lifetime home ownership cap. Thus, Petitioner has [REDACTED] of home ownership SER still available. It is found that MDHHS improperly denied Petitioner's SER application concerning property taxes.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's SER application dated August 19, 2015, concerning furnace repair/purchase, water bill, and energy services. The actions taken by MDHHS are **PARTIALLY AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER application, concerning property taxes. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) reinstate Petitioner's SER application dated August 19, 2015, concerning property taxes; and
- (2) process Petitioner's SER application subject to the finding that Petitioner has not met lifetime home ownership limits.

The actions taken by MDHHS are **PARTIALLY REVERSED**.



Christian Gardocki

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **11/12/2015**

Date Mailed: **11/12/2015**

CG/tm

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:

