

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

IN THE MATTER OF:

██████████
██████████
██████████████████

MAHS Reg. No.: 15-017019
Issue No.: 5001
Agency Case No.: ██████████
Hearing Date: November 12, 2015
County: Macomb-District 20

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 12, 2015, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████ Family Independence Specialist.

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) Assistance on the basis that her shelter was not affordable?

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 September 1, 2015, Petitioner submitted an application for SER assistance with home ownership services, specifically a mortgage and indicated that the amount needed was \$4085.34. (Exhibit D)
2. On the September 1, 2015, SER application, Petitioner reported: a household size of three; that the monthly mortgage payment was \$954.52; and that she receives child support for one of her children in the amount of \$577. (Exhibit D)
3. On September 8, 2015, the Department sent Petitioner a State Emergency Relief Decision Notice informing her that her application was denied on the basis that her shelter was not affordable according to SER requirements. (Exhibit A)

4. On September 14, 2015, Petitioner requested a hearing disputing the denial of her 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.

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide a safe shelter for the SER group in the foreseeable future. ERM 304 (October 2013), p. 1. House payments (mortgage, land contract payment or mobile home sales contract), including principal and interest, legal fees and escrow accounts for taxes and insurance are considered home ownership services payments and can be issued to save a home threatened with loss due to mortgage foreclosure, land contract foreclosure, or tax foreclosure, among other things. ERM 304, pp. 1-2. The lifetime home ownership services maximum is \$2,000. The lifetime maximum is the combined cumulative total of all home owner-ship service payments. Individual services (house payments, property taxes, etc.) do not have separate lifetime maximums. ERM 304, p. 2.

Housing affordability is a condition of eligibility for SER benefits for assistance with home ownership services. ERM 207 (March 2013), p.1 If a SER group does not have sufficient income to meet their total housing obligation, the application will be denied because a 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. ERM 207, p. 1. 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. The total housing obligation cannot exceed 75 percent of the group's total net countable income. ERM 207, p. 1.

In calculating a client's income eligibility, the Department must consider the client's net income. For unearned income such as child support, net income is determined by reducing the gross amount received by mandatory withholding taxes; court-ordered child support paid, including arrears; payments for health insurance; and Medicare premiums that will not be reimbursed. ERM 206 (October 2013), pp. 4-5.

To determine whether an SER group meets the housing affordability requirement, the Department will multiply the group's total net countable income by 75 percent. The

result is the maximum total housing obligation the group can have based on their income and still be eligible for SER housing services. ERM 207, pp.1-3.

In this case, a review of Petitioner's SER application shows that she reported monthly mortgage payment of \$954.52. (Exhibit D, p. 14). The Department stated that with the application, Petitioner submitted a monthly statement also reflecting the \$954.52 monthly mortgage payment and a total amount due as a result of delinquency of \$4085.34. (Exhibit C). Although Petitioner testified that she obtained a 12 month Forbearance Plan and her monthly mortgage payment was reduced to \$480, there was insufficient evidence presented by Petitioner that this information was available to the Department at the time the September 1, 2015, SER application was submitted and processed.

Furthermore, a review of the forbearance plan documents provided by Petitioner shows that the documents are dated August 19, 2015, and indicate that Petitioner was required to contact the loan service company by September 2, 2015, to accept the forbearance plan offer. In addition, the letter shows that terms of the plan have a reduced monthly payment start date of October 1, 2015. (Exhibit 1). Thus, the Department properly determined that Petitioner's monthly mortgage obligation at the time of the September 1, 2015, SER application was \$954.52. Also on her application, Petitioner reported unearned income from child support in the amount of \$577 monthly. (Exhibit D). At the hearing, Petitioner confirmed her monthly receipt of child support in the amount of \$577 and a child support search was presented by the Department. (Exhibit B). There was no evidence presented that Petitioner was entitled to any deductions to her income.

After further review and based on the evidence presented, Petitioner's monthly total housing obligation exceeds her total net countable income by more than 75 percent. Therefore, 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 Petitioner's SER application on the basis that her shelter was not affordable.

There was some evidence presented at the hearing concerning a second application for SER that Petitioner submitted on September 25, 2015, and that was denied by the Department on October 2, 2015. Petitioner was informed that because this was a subsequent action taken by the Department after the September 14, 2015, request for hearing date, Petitioner was required to submit a new hearing request to dispute the denial of her second SER application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/18/2015**

Date Mailed: **11/18/2015**

ZB / tlf

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:

[REDACTED]
[REDACTED]
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