

**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.: 15-021641
Issue No.: 1000 5001
Agency Case No.: [REDACTED]
Hearing Date: January 14, 2016
County: Wayne (76)

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, an in-person hearing was held on January 14, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], Pathways to Potential success coach, and [REDACTED], manager.

ISSUE

The issue is whether MDHHS properly processed Petitioner's State Emergency Relief (SER) application.

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 was an ongoing Family Independence Program (FIP) recipient.
2. On October 19, 2015, Petitioner applied for SER seeking [REDACTED] for a land contract arrearage.
3. Petitioner's SER application reported a monthly housing obligation totaling [REDACTED]
4. MDHHS did not request verification of Petitioner's housing expenses.

5. On November 6, 2015, MDHHS determined Petitioner was ineligible for SER due to housing not being affordable.
6. On November 9, 2015, Petitioner requested a hearing to dispute the denial of SER benefits and the amount of her FIP eligibility.
7. Petitioner testified that she did not wish to pursue her FIP eligibility dispute.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. MDHHS (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute the amount of ongoing FIP eligibility. Specifically, Petitioner disputed a determination that excluded her son as a FIP group member.

Petitioner testified she still did not agree with the FIP benefit determination, but that she no longer cared to dispute the determination because she was working and no longer needed the FIP benefits. Petitioner was advised that she still may be eligible to receive back-dated FIP benefits if MDHHS erred in determining Petitioner's previous FIP eligibility. Petitioner responded that she still wished to withdraw her hearing request concerning FIP eligibility. MDHHS agreed to the partial dismissal. Petitioner's hearing request will be dismissed concerning FIP benefits due to Petitioner's hearing request withdrawal.

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 requested a hearing, in part, to dispute a denial of a SER application requesting assistance with land contract payments. MDHHS presented a State Emergency Relief Decision Notice (Exhibit 1, p. 1) dated November 6, 2015 which stated the reason for SER application denial was that Petitioner's house payment was not affordable.

Housing affordability is a condition of eligibility for SER and applies to Relocation Services. ERM 207 (March 2013), p. 1. DHS is to authorize SER for services only if the

SER group has sufficient income to meet ongoing housing expenses. *Id.* 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. *Id.* DHHS is to deny SER if the group does not have sufficient income to meet their total housing obligation. *Id.* The total housing obligation cannot exceed 75 percent of the group's total net countable income. *Id.* The percentage increases up to 100 percent, depending on which utilities are included in the client's housing obligation.

Petitioner testimony indicated significance in how long MDHHS took to process her SER application. The standard of promptness for processing SER applications is 10 days, beginning with the date the signed SER application is received in the local office. ERM 103 (October 2015) p. 6. It was not disputed that MDHHS took 18 days to process Petitioner's application. It is appreciated that Petitioner was anxious to receive a response to her application. It is not appreciated how the extra days adversely affected Petitioner's eligibility. The delay is deemed to be irrelevant to the analysis.

MDHHS presented An SER- Affordability Test (Exhibit 1, p. 2). The affordability budget listed Petitioner's rent as [REDACTED] MDHHS calculated Petitioner's net countable income to be [REDACTED] in deeming Petitioner's housing payment to be not affordable.

Part of Petitioner's SER application (Exhibit 1, pp. 3-10) was presented. Petitioner listed a monthly land contract obligation of [REDACTED] and an additional monthly housing obligation of [REDACTED] for property taxes.

MDHHS testimony stated Petitioner's report housing obligation was [REDACTED] before Petitioner applied for SER. Assuming the MDHHS testimony to be accurate, MDHHS failed to explain why [REDACTED] was considered to be Petitioner's obligation after Petitioner reported a lesser obligation.

Clients must be informed of all verifications that are required and where to return verifications. ERM 105 (October 2015), p. 6. The due date is eight calendar days beginning with the date of application. *Id.* If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. *Id.* [MDHHS is to] use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. *Id.*

MDHHS testimony conceded a VCL was not mailed to Petitioner. Based on Petitioner's reported change in her land contract requirements, MDHHS should have requested verification of the change. The failure to do is reversible error. MDHHS will be ordered to process Petitioner's SER application based on the circumstances at the time of the application.

DECISION AND ORDER

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

- (1) re-register Petitioner's SER application dated October 19, 2015; and
- (2) process Petitioner's application subject to the finding that MDHHS failed to request verification of Petitioner's reported change in land contract expenses.

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



Christian Gardocki

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Signed: **1/20/2016**

Date Mailed: **1/20/2016**

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:

