

**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.: 15-010807
Issue No.: 5001
Agency Case No.: [REDACTED]
Hearing Date: January 27, 2016
County: Wayne (49)

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 27, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner's State Emergency Relief (SER) request for mortgage assistance.

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 [REDACTED], Petitioner applied for SER seeking assistance with a mortgage arrearage of \$9,542.34.
2. Petitioner was the owner of a residence in need of \$9,542.34 to prevent foreclosure.
3. On [REDACTED] MDHHS determined Petitioner was eligible for \$.99, subject to a Petitioner copayment of \$9,541.34, due by May 30, 2015.
4. On [REDACTED], Petitioner requested a hearing to dispute the SER determination.

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 requested a hearing to dispute a determination of SER eligibility. MDHHS presented a State Emergency Relief Decision Notice (Exhibit 1, p. 1) indicating Petitioner was approved for \$.99, subject to a copayment totaling \$9,541.34. The copayment was broken into an income copayment of \$22.79 and \$9,518.55 from "other sources."

Petitioner was unsure if the amount MDHHS factored to stop foreclosure was correct. MDHHS presented a debt collection letter (Exhibit 1, p. 2) dated [REDACTED]. The letter stated that \$9,542.33 was the total amount needed for reinstatement. It is found MDHHS properly determined the amount needed to resolve Petitioner's emergency.

[A requirement for SER-home ownership] includes the amount to be authorized does not exceed the home ownership services maximum of \$2,000.00... ERM 304 (October 2013), p. 5. MDHHS testimony indicated MDHHS policy states any home ownership request should be denied if the request exceeds \$2,000.00. The argument was not persuasive for two reasons. First, MDHHS policy only indicates a maximum issuance amount of \$2,000.00; MDHHS policy does not stated to deny the application if the amount sought exceeds \$2,000.00. Secondly, MDHHS technically approved Petitioner's SER request (albeit for the paltry sum of \$.99). If the MDHHS argument was correct, MDHHS would not have "approved" Petitioner's SER. It is found Petitioner is potentially eligible for \$2,000.00 in SER.

MDHHS presented a copayment budget (Exhibit 1, pp 3-4), indicating a final income copayment of \$22.79. A shortfall budget (Exhibit 1, p. 5) indicated Petitioner had no shortfall. A housing affordability budget indicated Petitioner could afford the relocation costs. Presented budgets (if accurate) would reduce Petitioner's potential SER issuance to \$1,977.21.

The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. ERM 208 (October 2014), p. 3. This policy could justify an "other source" contribution of \$7542.33 from Petitioner as that amount reflects the difference between Petitioner's need and SER payment maximum. MDHHS presented no explanation to justify the calculated "other sources" copayment of \$9,518.55.

It cannot be stated that MDHHS erred by calculating a total copayment of \$9541.31. It can be found that MDHHS failed to substantiate the calculated copayment. Based on presented evidence, it is found MDHHS improperly determined Petitioner's SER

eligibility. MDHHS will be ordered to reprocess Petitioner's application. Two items should be noted concerning reprocessing.

First, reprocessing may result in a less favorable decision for Petitioner. One area where MDHHS may have erred was calculating Petitioner had no copayment due to a shortfall. A shortfall is calculated from a client's previous 6 month mortgage payment history. Payments not made by the Petitioner are included in a copayment unless the lack of payments is excused by a lack of income. Presented evidence indicated Petitioner made very few payments in the 6 months before applying for SER. Thus, it is possible Petitioner will have a shortfall copayment upon reprocessing of the SER application.

Secondly, MDHHS must process Petitioner's SER application based on circumstances from the time of the original application. As an example, MDHHS cannot reduce Petitioner's SER need based on subsequent payments made by Petitioner.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly determined Petitioner's SER eligibility. 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 May 1, 2015; and
- (2) initiate processing of Petitioner's application based on circumstances from the date of Petitioner's application.

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



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/2/2016**

Date Mailed: **2/2/2016**

CG / 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:

