



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 14, 2016
MAHS Docket No.: 16-000389
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 March 10, 2016, from Lansing, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by Assistance Payments Supervisor [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER)?

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 December 22, 2015, Petitioner applied for SER for wood heat in the amount of \$ [REDACTED]
2. Petitioner provided copies of bank statements (Exhibit 1 Pages 12-13) showing she and her husband had \$ [REDACTED] in a savings account and \$ [REDACTED] in a checking account as of November 30, 2015.
3. Along with Petitioner, other residents in the home include her husband, her father, and three children.

4. Petitioner's father pays her \$ [REDACTED] per month to rent a room in the home.
5. Petitioner also provided copies of a bank statement (Exhibit 1 Pages 14-15) showing her father had \$ [REDACTED] in a savings account and \$ [REDACTED] in a checking account as of November 30, 2015.
6. In 2015, the Fair Market Rental (FMR) for an efficiency residence is \$523 per month, and the FMR for single-room occupancy units are 0.75 times the efficiency FMR, putting the FMR at \$392.25. See applicable HUD policy at https://www.huduser.gov/portal/datasets/fmr/fmrs/FY2015_code/2015summary.odn
7. Per ERM 201 (10/1/15) at pages 1-2, excluded group members do not include "Renters who live with the SER group, provided a fair market rental rate is paid."
8. ERM 201 also directs the reader to: "See the most current Fair Market Rents online at <http://www.huduser.org/portal/datasets/fmr.html>."
9. In a State Emergency Relief Decision Notice dated December 23, 2015, the Department denied the application after finding that the group had assets in excess of the amount needed to resolve the emergency. Exhibit 1 Pages 22-24.
10. On January 8, 2016, the Department received a hearing request from Petitioner.

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, Petitioner applied for SER to help with the purchase of wood to heat her home. When she applied, she provided a statement showing she and her husband had \$ [REDACTED] in the [REDACTED]. She provided another statement showing her father had \$ [REDACTED] in the same credit union. Her father lives in the home and pays rent. Petitioner's argument is that he is paying FMR for a room in the home and is not to be included in the group. She also argued that she did not have \$ [REDACTED] in her account at the time of her application.

During the hearing Petitioner provided information showing that she had \$ [REDACTED] in her checking and \$ [REDACTED] in her savings at the end of the day on December 22, 2015. The total on deposit was \$ [REDACTED]. However, that information was not provided to the Department at the time of the application. The Department made its decision based upon the assets that were verified at the time of the application.

If any error were made by the Department, it was when it did not count the father's assets. The father is not paying FMR for a room in the home. FMR is \$392.25, but he is paying only \$ [REDACTED]. If his assets were included, the group assets were \$ [REDACTED] that were verified at the time of the application. If his assets were included with her balances as of December 22, 2015, the group assets would still have exceeded the need amount. Nonetheless, the Department's failure to include his assets was harmless error because Petitioner had excess assets with her husband.

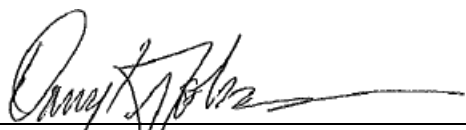
It will be noted that Petitioner testified that she operates a greenhouse and her husband has a roofing business. She stated neither of them has any separate accounts that they use for paying business expenses. Reviewing her statements from the credit union shows no expenses that appear consistent with either a roofing business or a greenhouse. Petitioner said that she and her husband pay business expenses from cash receipts. It certainly raises questions as to whether she is fully disclosing the group's business income. If there are no business banking accounts, they would have to be entirely cash-based businesses. This Administrative Law Judge has experience in banking and takes administrative notice that banks require checks payable to businesses to be deposited into an account in the business name. The Department might want to inquire into the manner in which Petitioner and her husband are documenting their business income and expenses.

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 application for SER.

DECISION AND ORDER

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

DJ/mc



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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

DHHS

[REDACTED]

Petitioner

[REDACTED]