



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: May 20, 2016
MAHS Docket No.: 16-003759
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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. After due notice, telephone hearing was held on May 10, 2016, from Lansing, Michigan. Participants on behalf of Petitioner included [REDACTED]. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department of Health and Human Services (Department) properly denied State Emergency Relief (SER) benefits?

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 March 2, 2016, the Department received the Petitioner's State Emergency Relief (SER) application seeking assistance with repairs to the roof of his home.
2. The Petitioner submitted an estimate for roof repairs with a \$ [REDACTED] cost. Exhibit A, p 4.
3. On March 7, 2016, the Department notified the Petitioner that he was approved for State Emergency Relief (SER) benefits contingent on his \$ [REDACTED] co-payment. Exhibit A, p 3.
4. On March 14, 2016, the Department received the Petitioner's request for a hearing protesting the denial of S.E. benefits. Exhibit A, p1.

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 safe shelter for the SER group in the foreseeable future. SER also assists with home repairs to correct unsafe conditions and restore essential services. Department of Health and Human Services Emergency Relief Manual (ERM) 304 (October 1, 2015), p 1.

The lifetime maximum for non-energy-related home repairs is \$ [REDACTED] per SER group. ERM 304, p 3.

On March 2, 2016, the Department received the Petitioner's SER application requesting assistance with repairs to the roof of his home. The Petitioner submitted a copy of an estimate for the roof repairs with a \$ [REDACTED] cost. Department policy includes a lifetime maximum for non-energy-related home repairs of \$ [REDACTED] and this is how the Department determined that the Petitioner would be responsible for a \$ [REDACTED] co-payment before SER benefits could be issued.

The Petitioner argued that considering his circumstances and fixed income that it was unreasonable to expect him to be able to make a \$ [REDACTED] co-payment within a short period of time and that he is deserving of an exception to this policy.

The Petitioner's grievance centers on dissatisfaction with the Department's current policy. The Petitioner's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

This Administrative Law Judge finds that the Department is limited by ERM 304 to issuing \$ [REDACTED] of SER benefits towards home repairs and that these benefits can only be issued after the co-payment has been made. This Administrative Law Judge lacks the authority to order the Department to grant an exception to this policy.

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 State Emergency Relief (SER) benefits.

DECISION AND ORDER

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

KS/las



Kevin Scully
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]

[REDACTED]

Petitioner

[REDACTED]