



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 1, 2016
MAHS Docket No.: 16-005030
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 26, 2016, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's March 29, 2016 application for State Emergency Relief (SER) 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 March 29, 2016, Petitioner applied for State Emergency Relief (SER) assistance with gas, electric, furnace repairs, property taxes, and home repairs.
2. On March 31, 2016, Petitioner entered into a payment plan with the [REDACTED] office concerning outstanding property taxes.
3. On April 4, 2016, the Department sent Petitioner an Application Notice notifying her that her SER application was denied because she failed to provide the Department with information needed to determine her eligibility (Exhibit A, pp. 8-9).

4. On April 7, 2016, the Department received Petitioner's request for hearing disputing the denial of her SER application (Exhibit B).

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.

Petitioner applied for SER assistance with gas, electric, property taxes, furnace repairs, and home repairs. The Department testified that it initially denied Petitioner's application in an April 4, 2016 Application Notice on the basis that Petitioner failed to provide the Department with information needed to determine eligibility (Exhibit A, pp. 8-9), which the Department explained included shut-off notices, property tax statements, and home repair estimates. However, before denying an application, the Department must inform the client of all verifications that are required and give the client eight calendar days from the date of application to return requested verifications. ERM 103 (October 2015), p. 6. There was no evidence in this case that the Department requested any verifications from Petitioner in writing and Petitioner testified that she did not receive any written verification checklist. It is noted that Petitioner had several estimates for repair services that she presented at the hearing (Exhibit 3). The Department acknowledged that the April 4, 2016 denial was improper.

However, the Department argued that it had nevertheless properly denied the application. The Department explained that, after Petitioner submitted her hearing request, it reprocessed her application and determined in an April 19, 2016 SER Decision Notice that she was ineligible for any of the requested SER assistance because (i) her gas and electric bill was not tied to the [REDACTED] residence for which she had requested assistance, (ii) the outstanding property taxes exceeded \$2000, and (iii) she was ineligible for assistance with the requested energy-related home repairs (for a furnace repair or replacement) and non-energy-related home repairs because the home was in jeopardy of loss (Exhibit A, pp. 5-7). At the hearing, Petitioner testified that she had entered into a payment plan concerning her outstanding property taxes, and therefore her request for assistance with taxes had been resolved and she no longer needed SER assistance for property taxes. Therefore, Petitioner's request for SER assistance with her gas and electric bills, furnace repairs, and other home repairs is addressed.

Gas and Electric Assistance

The Department testified that Petitioner's application for assistance with her gas and electric services was denied because her DTE account was tied to her former residence on Shaefer Road and this account had been inactive since 2013 (Exhibit A, pp. 2-3).

In order to be eligible for SER assistance with energy services, which include non-heat electricity and gas, the client's energy services bills must be connected to the group's current address. ERM 301 (October 2015), p. 5. However, if the bill, including old or transferred balances, must be paid to start or maintain services at the current address, payment may be authorized up to the fiscal year cap, as long as the payment resolves the emergency. ERM 301, p. 5. The fiscal year cap for gas is \$850 and for non-heat electric is \$850. ERM 301, p. 11.

In this case, Petitioner's account statement with [REDACTED], her electric and gas provider, shows that her account is tied to a site address on [REDACTED] and the account was last active in 2013 (Exhibit A, pp. 2-3). Petitioner explained that [REDACTED] refused to transfer her account and start gas and electric services at her [REDACTED] address unless she paid \$1000. Because [REDACTED] would not start services at the [REDACTED] [REDACTED] until Petitioner's old bill was paid, the Department did not act in accordance with Department policy when it denied Petitioner's application for SER assistance with gas and electric bills on the basis that the bill was not tied to her current [REDACTED] address.

Furnace and Other Home Repairs

SER assistance is also available with energy-related or non-energy related home repairs. ERM 304 (October 2015), p. 1. Repair or replacement of a non-functioning furnace is currently the only allowable energy-related home repair and assistance is limited to a lifetime maximum of \$4,000. ERM 304, p. 2. Non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement, including a hot water heater and plumbing. ERM 304, p. 3. Assistance with non-energy-related repairs is available only if the repair is essential to remove a direct threat to health or safety or as required by law or mobile home park regulation. ERM, p. 304, p. 3. A client is not eligible for SER assistance with home repairs if the home is in jeopardy of loss due to unpaid taxes or foreclosure of a mortgage or land contract unless a workable plan exists for paying the arrearage. ERM, p. 304, p. 4.

The Department concluded that Petitioner was not eligible for home repairs because her home was in jeopardy of loss. In support of its position, the Department relied on property tax information retrieved from the [REDACTED] website that showed that the [REDACTED] home was subject to foreclosure due to outstanding taxes from 2012 to 2014 (Exhibit A, p. 4). At the hearing, Petitioner testified that she had entered into a payment plan with the County on March 31, 2016 and advised her worker of this on April 7, 2016. At the hearing, she presented a copy of the March 31, 2016 stipulated tax foreclosure avoidance agreement with the [REDACTED] for

the payment of 2015 and prior years' delinquent taxes, interest, penalties and fees, which identified her as the owner of the [REDACTED] property and specified the payment terms of the agreement, as well as a tax receipt showing that she had paid the \$915 initial payment required under the agreement (Exhibit 2). Although the Department denied receiving a copy of the plan, Petitioner credibly testified that she had tried to contact her worker on multiple occasions and that her worker refused to accept any paperwork that Petitioner provided. Because Petitioner established that she had entered into a workable plan for payment of her property tax arrearages and informed the Department of this plan prior to the April 19, 2016 SER Decision Notice, the Department did not act in accordance with Department policy when it denied Petitioner's application for assistance with home repairs on the grounds that the home was in jeopardy of loss.

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 did not act in accordance with Department policy when it denied Petitioner's SER application for assistance with gas and electric bills and for assistance with home repairs, including furnace repair/replacement.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister and reprocess Petitioner's March 29, 2016 SER application;
2. Provide payment to Petitioner's providers for SER assistance she is eligible to receive, if any; and
3. Notify Petitioner in writing of its decision.

ACE/tlf



Alice C. Elkin
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

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