



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: June 6, 2016  
MAHS Docket No.: 16-005764  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Aaron McClintic**

### **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 June 1, 2016, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Coordinator.

### **ISSUE**

Did the Department properly deny Petitioner's application for State Emergency Relief and Food Assistance Program 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 April 18, 2016, Petitioner applied for SER and FAP benefits.
2. On April 19, 2016, Notice of Case Action was issued denying Petitioner's FAP application due to excess assets.
3. On April, 19, 2016, a State Emergency Relief Decision Notice was issued denying Petitioner's SER application because there was not a furnace or hot water heater in the home and purchasing either item would be an improvement.
4. Petitioner's home located at [REDACTED] did have a hot water heater and a furnace.
5. Petitioner was residing at [REDACTED] at the time of application.

6. At hearing, the Department agreed to reprocess Petitioner's SER application.

### **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 Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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.

#### **Non-Energy- Related Home Repairs**

Non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement. Examples include:

- Repairs to the basic structure.
- Hot water heater.
- Septic/waste disposal system.
- Doors/windows.
- Extermination services.
- Electrical.
- Plumbing.
- Roofs.
- Wells/water supply system.
- Wheelchair ramps.

Authorization for payment is only made if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. The repair(s) must restore the home to a safe, livable condition.

#### **SER does not pay for improvements or nonessential repairs. ERM 304**

##### **Homestead Definition and Exclusion**

##### **SSI-Related MA Only and FAP**

A homestead is where a person lives (unless **Absent from Home-stead**, see below) that they own, is buying or holds through a life estate or life lease. It includes the home, all adjoining land and any other buildings on the land. Adjoining land means land which is **not** completely separated from the home by land owned by someone else. Adjoining land may be separated by rivers, easements and public rights-of-way (example: utility lines and roads). BEM 400

In this case, with regard to State Emergency Relief, the Department agreed to reinstate and reprocess Petitioner's application because they were satisfied that the home in question did have an existing hot water heater and a furnace and therefore replacements would not be considered improvements. ERM 304

With regard to the FAP denial due to excess assets, Petitioner's application was denied due to excess assets because there were questions about whether she was residing in the home she owns located at [REDACTED]. Petitioner credibly testified that she was residing at [REDACTED] at the time of application on April 18, 2016. Petitioner asserted that Children's Protective Services had been to the home at [REDACTED] on more than one occasion and had no issues with her residing there with her children. A fee investigation had been conducted regarding whether Petitioner resided at [REDACTED] but the fee investigator did not testify at hearing. Petitioner's home located at [REDACTED] should not have been excluded, therefore the denial due to excess assets was improper and incorrect. BEM 400

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.

### **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. Reinstate and reprocess the application for State Emergency Relief going back to the date of application.
2. Reinstate and reprocess the application for Food Assistance Program benefits going back to the date of application.
3. Award SER and FAP benefits if Petitioner is found otherwise eligible and issue the benefits in the form of a supplement.

AM/las



**Aaron McClintic**

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**



**Petitioner**

