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

RICK SNYDER
GOVERNOR

SHELLY EDGERTON
DIRECTOR

Date Mailed: October 10, 2016
MAHS Docket No.: 16-008975
Agency No.:
Petitioner:

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 September 28, 2016, from Inkster, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by ▬▬▬▬, hearing facilitator.

ISSUE

The issue is whether MDHHS properly determined Petitioner's State Emergency Relief (SER) eligibility concerning requests for mortgage and property tax foreclosures.

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 ▬▬▬▬, Petitioner applied for SER.

2. Petitioner's SER application sought assistance for ▬▬▬▬ in property taxes and ▬▬▬▬ in mortgage arrearages.

3. Petitioner reported and verified a monthly income of ▬▬▬ to MDHHS.

4. Over the period from ▬▬▬▬▬▬▬▬▬▬, Petitioner had not paid ▬▬▬ of her mortgage.

5. Over the period from ██████████████████████████, Petitioner's monthly income exceeded ████.

6. On ███████████, MDHHS determined Petitioner was eligible to receive ████ in property tax assistance, subject to a ██████ copayment; MDHHS also determined Petitioner was ineligible for assistance with her mortgage foreclosure.

7. On ███████████, Petitioner requested a hearing to dispute the SER determinations concerning property tax and mortgage foreclosure.

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 concerning requests for mortgage and property tax foreclosures. MDHHS presented a State Emergency Relief Decision Notice (Exhibit 1, p. 1) dated ███████████. Petitioner was deemed eligible for only ██████ in property tax assistance, and that was subject to a copayment of ████████. Petitioner was denied mortgage arrearage assistance completely. The notice stated the decisions were, in part, based on a shortfall of ██████ for "unmet required payments" and a ██████ copayment based on income/assets.

[MDHHS is to] issue Home Ownership Services payments only to save a home threatened with loss due to mortgage foreclosure, land contract forfeiture, tax foreclosure, or court ordered eviction of a mobile home from land or a mobile home park. ERM 304 (October 2015), p. 4. [Among the home ownership requirements is that] the SER group did not cause the emergency. ERM 304 (October 2015), p. 34. [MDHHS is to] not authorize Home Ownership Services if the emergency was client-caused; see ERM 204, Client Caused Emergencies. (Property tax and home repair requests are exempt from the client-caused provision in Item 204.) *Id.*

[MDHHS is to] evaluate the payment history for the preceding six-month period to determine the required payment criteria. ERM 204 (August 2014), p. 1. Required payments are actual shelter costs or required energy and/or utility payments as outlined in ERM 301 & ERM 302. *Id.* Required payments are determined based on the group members in the home during the required payment period. *Id.*

Good cause may exist as a basis for an applicant's failure to prevent an emergency. *Id.* Good cause for failure to meet obligations for shelter, energy, or utilities exists if… the SER group's net countable income from all sources during each month the group failed to pay their obligations was less than the amount shown for the SER group size in the

good cause table in this item… *Id*, p. 2. The good cause amount for a group size of 1 is ███ (see *Id.*, p. 3). The client must pay the shortfall amount toward the cost of resolving the emergency. ERM 208 (October 2015), p. 4.

Petitioner testimony conceded her mortgage payment exceeded ███/month. Petitioner testimony conceded she did not pay her mortgage at least █ times in the six months before applying for SER. Petitioner testimony conceded her net income was at least ███ in each of the 6 months preceding her SER application date. This evidence was highly indicative that MDHHS properly factored a ████████████████ shortfall in Petitioner's request for mortgage arrearage.

Petitioner contended she should be excused from paying her mortgage because she incurred substantial vehicle repair costs in November 2015. Because Petitioner was employed, it can be assumed that the repairs were necessary for Petitioner to maintain employment.

If the emergency resulted from unexpected expenses related to maintaining or securing employment, [MDHHS is to] verify expenses for each month the group failed to pay their obligations. *Id.*, p. 2. The employment related expenses must equal or exceed the monthly obligation. *Id.*

Petitioner did not allege vehicle repair costs exceeding her mortgage obligation in any of the months that she did not pay her mortgage. The only month in which Petitioner incurred costs was the 7th month before Petitioner's SER application. Thus, it is MDHHS properly did not find good cause for Petitioner's failure to pay her mortgage.

It is found MDHHS properly calculated a ███ shortfall to Petitioner's request for mortgage assistance. The analysis will proceed to determine if MDHHS properly determined Petitioner's income/asset copayment. MDHHS testimony credibly indicated the copayment was exclusively based on Petitioner's income.

A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in Exhibit I, SER Income Need Standards for Non-Energy Services. ERM 208 (October 2015), p. 1. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. *Id.* This is the income copayment. *Id.*

MDHHS calculated Petitioner's income based on two of Petitioner's pay stubs. Petitioner received gross income of ███ on ████████, and ███ in gross income on ████████. Adding the combined income results in a total income of ███. MDHHS credited Petitioner with a mandatory 25% expense credit (see ERM 206 (October 2013), p. 7) leaving Petitioner with a net countable income of ████. As a group size of 1, Petitioner's need standard is ███ (see *Id.*, p. 5). Subtracting

Petitioner's income-need standard from net income results in an income copayment of
███, the same amount calculated by MDHHS.

The preceding analysis is suggestive that MDHHS properly calculated Petitioner's SER
eligibility. Petitioner raised two arguments suggesting otherwise.

Petitioner testified that the income factored by MDHHS was not representative of her
income in the 30 days after her application date. Petitioner testified she is a substitute
teacher and was not paid in summer months.

It was not disputed that Petitioner checked "yes" on her SER application in response to
a question asking if her income was "expected to continue in next 30 days." Petitioner's
affirmative response is indicative that MDHHS had a legitimate basis to factor
Petitioner's reported income from May 2016.

Despite Petitioner's SER application statement, Petitioner contended that an interview
by MDHHS would have revealed that her employment income would not continue for
the 30 days following her SER application. Petitioner testimony conceded MDHHS
spoke to her before determining eligibility, however, Petitioner did not consider the
conversation to rise to an "interview" level.

[MDHHS is to] conduct an in-person interview with an adult member of the SER group
or the authorized representative. ERM 103 (October 2015), p. 5. The purpose of the
interview is to:
  • Verify the applicant's identity.
  • Determine what the emergency is and what SER service is needed.
  • Inform applicants of their rights and responsibilities.
  • Examine and clarify information provided on the application(s).
  • Witness the applicant's signature on the application(s).
  • Explain the SER eligibility requirements that must be met before approving SER
    payment.
  Id.

It is theoretically possible that a different interviewer might have established Petitioner's
employment income would not continue; this possibility does not alter the analysis.
Based on Petitioner's seemingly unambiguous SER application statements, an
interviewer would have little reason to inquire further about Petitioner's income. It is
found MDHHS adequately interviewed Petitioner and that MDHHS did not fail to factor
Petitioner's unreported income change.

It should be noted that MDHHS has policy which allows for a reduction of an income
copayment (see ERM 208). The policy is discretionary and must be utilized before
written decision is issued. The policy does not affect the above analysis, however,
Petitioner might find the policy useful if she reapplies for SER.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly determined Petitioner's SER eligibility related to an application dated ███████. The actions taken by MDHHS are **AFFIRMED**.

CG/hw

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

<u>NOTICE OF APPEAL</u>: 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:

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Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

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DHHS

Petitioner