



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: October 12, 2016
MAHS Docket No.: 16-012475
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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, a telephone hearing was held on October 5, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager, [REDACTED], manager, and [REDACTED], specialist.

ISSUES

The first issue is whether MDHHS properly determined Petitioner's State Emergency Relief (SER) eligibility concerning a water bill.

The second issue is whether MDHHS properly denied Petitioner's SER application concerning relocation expenses.

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 [REDACTED], Petitioner applied for SER concerning a [REDACTED] water bill.
2. On [REDACTED] Petitioner submitted an SER application requesting assistance with relocation costs for an [REDACTED] security deposit and [REDACTED] in moving expenses.
3. Petitioner's SER application dated [REDACTED], stated that Petitioner was a recipient of subsidized housing and that she was not expected to pay rent.

4. On [REDACTED], MDHHS approved Petitioner for [REDACTED] towards her water bill, subject to a [REDACTED] copayment to be paid within 30 days.
5. On [REDACTED], MDHHS denied Petitioner's SER application for relocation due to Petitioner's rent not being affordable.
6. On [REDACTED], Petitioner requested a hearing to dispute the SER decisions concerning her water bill and relocation costs.

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, in part, to dispute a determination of SER for a water bill. MDHHS presented a State Emergency Relief Decision Notice (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice stated Petitioner was approved for [REDACTED] toward her water bill, subject to a copayment to be made by Petitioner by [REDACTED].

It was not disputed that Petitioner did not submit proof of a copayment, and that MDHHS did not authorize the [REDACTED] payment. Petitioner testimony clarified that her dispute with the MDHHS determination was that MDHHS did not approve her for more than [REDACTED] in assistance.

[For utility services, MDHHS is to] approve payment up to the fiscal year cap if it will resolve the emergency and if the provider will maintain or restore service for at least 30 days. ERM 302 (October 2013), p. 3. Do not authorize any payment that will not resolve the current emergency, even if the payment is within the fiscal year cap. *Id.* The fiscal year cap for water is [REDACTED] (see *Id.*)

The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. ERM 208 (October 2015), p. 3. Verification that the contribution has been paid must be received before any SER payment can be made. *Id.* Verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made. *Id.*, p. 4. The client will then have to reapply. *Id.*

MDHHS approved Petitioner for a [REDACTED] water bill payment. The approval was the maximum SER payment for water bill assistance. Any amount above [REDACTED] to prevent shut-off was properly determined to be the responsibility of Petitioner.

Based on a [REDACTED] approval and a [REDACTED] copayment, it can be deduced that MDHHS determined Petitioner's SER eligibility based on a [REDACTED] (the sum of approved amount and copayment) shut-off amount. Petitioner alleged her water bill was actually higher than the amount used by MDHHS. For purposes of the analysis, Petitioner's allegation will be accepted.

The aforementioned policy supports finding that the most favorable decision Petitioner could have received was a [REDACTED] SER approval. Had MDHHS factored a higher water bill, Petitioner would have been again approved for a [REDACTED] but her copayment would have been higher. Petitioner is not entitled to administrative relief for her allegation that MDHHS understated her water bill need. It is found MDHHS properly determined Petitioner's SER eligibility for a water bill.

Petitioner requested a hearing, in part, to dispute a denial of SER application dated July 25, 2016 (Exhibit 1, pp. 7-10). MDHHS presented a State Emergency Relief Decision Notice (Exhibit 1, pp. 1-2) dated [REDACTED]. The notice stated Petitioner's SER application for relocation was denied due to rent not being affordable.

Housing affordability is a condition of eligibility for SER and applies to Relocation Services. ERM 207 (October 2015), p. 1. [MDHHS is to] authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. *Id.* An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. *Id.* [MDHHS is to] deny SER if the group does not have sufficient income to meet their total housing obligation. *Id.*

The total housing obligation cannot exceed 75 percent of the group's total net countable income [if no utilities are included in the rent obligation]. *Id.* The percentage increases up to 100 percent, depending on which utilities are included in the client's housing obligation (see *Id.*, p. 3).

Petitioner's SER application specifically listed requests of [REDACTED] for security deposit and [REDACTED] in moving expenses. There was no apparent indication of a need for a first month's rent as Petitioner wrote "I have Section 8 which will cover my full portion [REDACTED], of my rent... I just need assistance with my security deposit and moving expenses since my landlord has failed to do the repairs."

MDHHS determined Petitioner's housing affordability based on a prospective rent of [REDACTED]. Presumably, the [REDACTED]/month in rent factored by MDHHS was the rent charged by her landlord. MDHHS testimony indicated the rental amount was garnered from a document from Petitioner's prospective landlord; the document was not presented as an exhibit.

The MDHHS testimony was credible, however, it fails to account for Petitioner's reporting that she was not expected to pay any rent because of her subsidized housing

eligibility. For purposes of calculating housing affordability, MDHHS' only concern should be the client's rental obligation (after third party payments) as that is the amount which determines if the housing is affordable. If Petitioner's rent was fully subsidized, then MDHHS should have calculated rent affordability based on a rent of \$0. MDHHS' reliance on the landlord statement is misguided because it fails to consider that the landlord would not likely report subsidized housing obligation.

Presented evidence suggested that MDHHS did not possess documentation verifying Petitioner's rental obligation following subsidized payment. It was not disputed that MDHHS did not request verification of Petitioner's rent obligation following subsidy.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (October 2015), p. 6. [MDHHS is to] use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. *Id.* The due date is eight calendar days beginning with the date of application. *Id.* If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. *Id.*

The failure by MDHHS to request verification of Petitioner's rental obligation (after subsidized payment) is found to be improper. Accordingly, the rental affordability calculation and subsequent SER denial for relocation costs are found to be improper.

MDHHS will be ordered to re-register and reprocess Petitioner's SER application concerning housing costs. MDHHS must process Petitioner's SER application based on circumstances from the time of the original application. For example, if Petitioner managed to pay her relocation costs and move into a residence since the MDHHS denial of SER, MDHHS may not deny her application for the reason that Petitioner has since resolved her emergency.

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 eligibility for a SER application dated [REDACTED], concerning a water bill. The actions taken by MDHHS are **PARTIALLY AFFIRMED.**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER application for relocation costs. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Petitioner's SER application dated [REDACTED]; and
- (2) Process Petitioner's SER eligibility subject to Petitioner's circumstances at the time of application and subject to the finding that MDHHS failed to request verification of Petitioner's rental obligation following subsidized housing payment.

The actions taken by MDHHS are **PARTIALLY REVERSED**.

CG/hw



Christian Gardocki
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]