



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: December 8, 2016
MAHS Docket No.: 16-014878
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

1. Did the Department properly deny the Petitioner's request for State Emergency Relief (SER) with regard to property taxes?
2. Did the Department properly reduce the Petitioner's Food Assistance Program (FAP)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner applied for SER assistance with his home property taxes on [REDACTED].
2. The Department denied the Petitioner's application in an Application Notice, dated [REDACTED], finding he was not eligible for property tax assistance. The denial reason was that the Petitioner did not have a delinquent tax notice. Exhibit A.

3. The Petitioner was an ongoing recipient of FAP. The Department reduced the Petitioner's FAP on [REDACTED], to \$ [REDACTED].
4. The Petitioner has an FAP group size of one; the Petitioner no longer pays child support in the amount of \$ [REDACTED]. The Department provided a property tax expense of \$ [REDACTED] and provided a utility allowance to the Petitioner of \$ [REDACTED]. The Petitioner's mortgage expense of \$ [REDACTED] with [REDACTED] was not included in the FAP budget.
5. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's actions.

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.

In this case, the Department denied the Petitioner's request for SER with regard to home tax assistance in an Application Notice, dated [REDACTED]. Although the notice is inaccurate as it denied the taxes because the Petitioner did not provide a delinquent tax notice, the Department reached the correct result. Policy found in the Emergency Relief Manual provides the following:

Home ownership services payments are only issued to save a home threatened with loss due to:

- Mortgage foreclosure.
- Land contract forfeiture.
- Tax foreclosure or sale.

- Court-ordered eviction of a mobile home from land or a mobile home park.
- Repossession for failure to meet an installment loan payment for a mobile home.

The lifetime home ownership services maximum is \$2,000. The lifetime maximum is the combined cumulative total of all home ownership service payments. Individual services (house payments, property taxes, etc.) do not have separate lifetime maximums. ERM 304 (October 2015) pp. 1-2.

The following services are covered by this item:

- Property taxes and fees.

Issue Home Ownership Services payments only to save a home threatened with loss due to mortgage foreclosure, land contract forfeiture, tax foreclosure,

- The total amount of tax arrearage for **all** years does not exceed \$2,000. (This only applies to home ownership for taxes.) Pay only the minimum amount required to resolve the tax emergency. Do not pay until loss of the home is imminent; see Verification below.

Note: The total tax arrearage amount is the total for every year combined, not just for the tax years which assistance is being requested. ERM 304 (October 2015) pp. 1, 5.

Property Tax Sale

Property tax sale:

- Statement from taxing authority verifying total tax arrearage, **and**
- Notice scheduling a judicial foreclosure hearing. This occurs one year after forfeiture - generally in February.

Note: First, taxes become delinquent. Then, a year later forfeiture occurs and interest and fees increase. One year later, a circuit court hearing is held and foreclosure occurs.

Payment of taxes may be made once the client provides a notice scheduling the judicial foreclosure hearing. It is not necessary to wait until the judgment has been

entered. Once a judgment has been entered, the client must make payment within 21 days of entry of the foreclosure judgment but no later than March 31.

Once the March 31 date has passed, ownership is transferred to the county and there is no redemption possible. Process the application within the SOP or by the date necessary to prevent the loss of the property, whichever is sooner. ERM 304, pp. 6-7.

In this case, it was determined that the Petitioner's home was not in a judicial foreclosure proceeding. Based upon the evidence presented, the Petitioner was not eligible for tax relief because his taxes were only delinquent at the time of his application. Exhibits A, B and C.

As explained at the hearing, until the taxes are in a judicial foreclosure proceeding, the Department cannot assist the Petitioner with his taxes on his home. In addition, the Petitioner should be aware that the maximum amount the Department can assist on the taxes is \$ [REDACTED]. Thus, as explained at the hearing, the Department correctly denied the Petitioner's request for SER assistance with his home taxes; however, the reason stated that he failed to provide a delinquency notice was incorrect. Thus, the Department correctly denied the Petitioner's request for SER with regard to his taxes as they are not in judicial foreclosure proceedings and were not at the time of his application.

The Petitioner also requested a hearing regarding the reduction of his FAP benefits \$ [REDACTED] per month. At the hearing, the Petitioner's FAP budget was reviewed, as well as his shelter expenses. The Department recently changed the heat and utility (h/u) allowance and lowered it to \$ [REDACTED] per month. This change was effective. See Reference Manual, RFT 255 (October 1, 2016), p.1. In addition, based upon the review of the FAP budget, the Department correctly included only the Petitioner's property taxes as it had no record at the time it completed the budget for [REDACTED] of the Petitioner's mortgage payment. The electronic data system was reviewed at the hearing, and there was no record that a verification of mortgage payments was provided by the Petitioner to the Department. The Petitioner must provide a copy of his mortgage payments on his home in order to have them included as part of his FAP budget.

As regards his FAP budget, the following was confirmed. The Petitioner has an FAP group of one person; he receives a property tax monthly cost of \$ [REDACTED]. He receives an h/u allowance of \$ [REDACTED] per month as he pays a heating bill, and this amount was included as a housing expense as part of the excess shelter calculation. And he receives unearned income from Supplemental Security Income (SSI) in the amount of \$ [REDACTED] monthly, which was included as his monthly income. The Petitioner confirmed this information as correct. The Department also included child support of \$ [REDACTED] as a monthly expense. The Petitioner testified credibly that he no longer pays child support. The Department also provided a standard deduction of \$ [REDACTED] per month based upon

the Petitioner's group size of one. RFT 255 (October 2015), p. 1. After review of the FAP budget is determined that the budget as calculated was correct and the reduction, therefore, was also correct. Exhibit D.


The Petitioner should note that his FAP may be further reduced once the child support expense of \$ [REDACTED] is removed from his FAP budget calculations. The FAP benefits will also be further adjusted to allow for a larger housing expense if the Petitioner provides verification of his mortgage expense on his home as it will increase his shelter expenses.

DECISION AND ORDER

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 the Petitioner's SER application for home tax relief and correctly reduced the Petitioner's FAP benefits.

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

LMF/jaf



Lynn M. Ferris

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]

Petitioner

[REDACTED]

[REDACTED]