



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: August 29, 2016
MAHS Docket No.: 16-009844
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 August 22, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager.

ISSUE

The issue is whether MDHHS properly denied Petitioner's State Emergency Relief (SER) application for property taxes.

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 seeking assistance with a property tax arrearage.
2. Petitioner's application listed a property tax arrearage of less than [REDACTED].
3. On [REDACTED], MDHHS denied Petitioner's application due to Petitioner not being able to afford her rent.
4. On [REDACTED], Petitioner requested a hearing to dispute the SER application denial.

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 the denial of an SER application requesting assistance with a property tax arrearage. MDHHS presented State Emergency Relief Decision Notice (Exhibit 1, pp. 1-2) dated July 6, 2016. The notice stated Petitioner's application was denied due to her shelter not being affordable.

MDHHS testimony conceded the stated denial reason was improper. Despite the concession, MDHHS also alleged the SER application denial was proper because Petitioner's property tax arrearage exceeded [REDACTED]. MDHHS testimony indicated an updated denial notice was mailed (though it was not presented). For purposes of this decision, the MDHHS testimony concerning the denial reason will be accepted. Thus, the analysis will consider if MDHHS properly denied Petitioner's SER application due to Petitioner's property tax arrearage exceeding [REDACTED].

Home ownership services [includes assistance with] property taxes. ERM 304 (October 2015), p. 1. [A requirement for SER-property taxes is] the total amount of tax arrearage for all years does not exceed \$2,000. *Id.*, p. 5.

MDHHS presented a Notice of Property Tax Forfeiture/Foreclosure (Exhibit 1, p. 3). The document listed that Petitioner owed over [REDACTED] in property taxes combined over 2013 and 2014. MDHHS contended that the SER denial was proper based on the documentation verifying Petitioner's property tax arrearage. Presumably, Petitioner submitted the document as part of a previously denied SER application because it had a MDHHS stamp of receipt of [REDACTED].

Petitioner testified she has made tax payments since March 2016 and her current tax arrearage is less than [REDACTED]. Petitioner did not present documents to verify her current property tax arrearage. Current property tax arrearage verification is unnecessary because MDHHS failed to verify a procedural requirement.

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.*

It was not disputed Petitioner reported on her SER application that her tax arrearage under [REDACTED]. Petitioner's reporting should have prompted MDHHS to mail Petitioner a Verification Checklist requesting Petitioner's current tax arrearage; instead MDHHS improperly relied on a 2-month old document. MDHHS testimony indicated a Verification Checklist was not mailed to Petitioner.

MDHHS contended Petitioner should have submitted a current property tax arrearage statement with her application. To support the contention, MDHHS testimony indicated the SER application instructs clients to submit relevant documents with the application. Even if the SER application informs clients to submit documents with the application, the obligation is not required by MDHHS policy. It is MDHHS policy, not SER applications, which dictate the requirements of MDHHS and clients. It is found MDHHS failed to properly request proof of Petitioner's property tax obligation.

It cannot yet be stated that Petitioner is eligible for a property tax SER. MDHHS will be ordered to request Petitioner's tax obligation so a new determination of SER eligibility can be made.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER application. 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 application subject to the finding that MDHHS failed to properly request an update of Petitioner's property tax arrearage.

The actions taken by MDHHS are **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]