



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: September 14, 2016
MAHS Docket No.: 16-010542
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, an in-person hearing was held on September 8, 2016, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], manager, and [REDACTED], specialist.

ISSUES

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

The second issue is whether MDHHS properly denied Petitioner's SER application for energy services.

The third issue is whether MDHHS properly denied Petitioner's State Disability Assistance (SDA) application.

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 SDA benefits.
2. MDHHS failed to request verification of disability.

3. On [REDACTED], MDHHS denied Petitioner's SDA application due to Petitioner failing to submit verification of disability.
4. On [REDACTED], Petitioner applied for SER seeking assistance with energy services and relocation.
5. The rent at Petitioner's prospective residence was [REDACTED]/month, with no utilities included.
6. Petitioner's reported household income was [REDACTED]
7. On [REDACTED], MDHHS denied Petitioner's SER application for energy services due to Petitioner applying outside of crisis season.
8. On [REDACTED], MDHHS denied Petitioner's SER application for relocation due to Petitioner's rent not being affordable.
9. On [REDACTED], Petitioner requested a hearing to dispute the denial of SDA and SER.

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 the denial of an SER application requesting energy services. MDHHS presented a State Emergency Relief Decision Notice (Exhibit 1, p. 1) dated [REDACTED]. The presented SER application denial notice stated Petitioner's application was denied because it was submitted outside of crisis season.

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (February 2015), p. 1. For energy related emergencies, the SER crisis season runs from November 1 through May 31. *Id.* Requests for those services will be denied June 1 through October 31. *Id.*

It was not disputed Petitioner applied for energy services on [REDACTED]. Petitioner's application was submitted outside of crisis season. Thus, it is found MDHHS properly denied Petitioner's SER application concerning energy services.

Petitioner requested a hearing, in part, to dispute a denial of an SER application seeking assistance for relocation. Petitioner testified she was getting evicted from her

residence and sought [REDACTED] towards a first month's rent and/or security deposit for a new residence.

MDHHS presented a State Emergency Relief Decision Notice (Exhibit 1, p. 2) dated [REDACTED]. The notice stated Petitioner's SER application was denied due to Petitioner's shelter 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 testified (if not during the hearing applicable to this decision, then in a hearing held immediately beforehand) that no utilities were included with her rent. Thus, her rent is only affordable if 75% of her total net countable income equals or exceeds her rent obligation. It was not disputed that the rent of Petitioner's prospective residence was [REDACTED]. Thus, Petitioner must have an income of approximately [REDACTED] for her rent to be deemed affordable. Petitioner testimony conceded her household's total reported income at the time of SER was [REDACTED]. It is found MDHHS properly denied Petitioner's SER application for relocation.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. MDHHS (formerly known as the Family Independence Agency) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a denial of SDA benefits. Petitioner testified she applied on [REDACTED]. Petitioner's testimony concerning the date she applied was based on various medical forms MDHHS mailed to her which were dated [REDACTED]. Petitioner's testimony assumed MDHHS mailed her the forms the same date she applied for SDA benefits.

MDHHS raised two different arguments to Petitioner's testimony. The first argument was that Petitioner was not technically denied SDA benefits because Petitioner never applied for the benefits.

It is problematic for MDHHS that a SDA dispute was not addressed in their written case summary. The lack of preparation tainted whether the MDHHS argument was based on reliable evidence.

Despite the lack of hearing preparation, MDHHS was given time during the hearing to present documentation verifying no previous SDA application registrations within their database. MDHHS testimony conceded written notice of Petitioner's SDA application denial was mailed on [REDACTED]. MDHHS did not dispute that if written notice was issued, then a SDA application from Petitioner was registered within the MDHHS database. It is highly improbable that MDHHS would register an application unless an application was submitted.

On the remote possibility that MDHHS staff registered a non-existent SDA application, if written notice of denial was issued, it would be expected to read that Petitioner did not apply for the program. MDHHS testimony conceded Petitioner's written notice of denial did not reference an improperly registered application.

It is notable that in a companion hearing held immediately before the hearing associated with this hearing decision, MDHHS also alleged Petitioner failed to apply for a program. As it happened, MDHHS discovered that Petitioner had applied for the program and overlooked the application because it was registered under a different case number than expected. Erring once in acknowledging the submission of one of Petitioner's applications renders it more possible that MDHHS may have committed the error again. Based on presented evidence, it is found Petitioner applied for SDA benefits on [REDACTED], [REDACTED].

MDHHS also contended that Petitioner's application was properly denied due to a Petitioner failure to timely return verifications. Specifically, MDHHS alleged Petitioner failed to submit documents supporting disability.

[For SDA benefits, MDDHS is to] use the DHS-3503, Verification Checklist to request verification. BAM 130 (January 2016), p. 3. [MDDHS is to] allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. *Id.*, p. 6. [MDHHS] must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 3. [MDHHS] is to send a negative action notice when... the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. *Id.*

Consideration was given to finding that Petitioner did not need to submit proof of disability. MDHHS testimony conceded Petitioner was deemed disabled by the Social Security Administration (though Petitioner received a net disability-based benefit of \$0). Disability established by SSA establishes disability for purposes of SDA eligibility (see BEM 261); nevertheless, the outcome will be dictated by a different consideration.

MDHHS failed to present a DHS-3503 verifying that a valid request of verification was dispatched. It is admitted that time could have been granted to MDHHS during the

hearing so that one could be obtained. After MDHHS failed to address the issue in their case summary and having already given MDHHS multiple opportunities throughout two hearings to present evidence, further opportunities to present evidence would be improperly lenient.

It is found MDHHS failed to prove Petitioner failed to timely submit verifications needed for SDA application processing. Accordingly, the denial of Petitioner's SDA application is found to be improper.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's SER application dated [REDACTED] concerning energy services and relocation. 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 SDA application. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's SDA application dated [REDACTED];
- (2) Process Petitioner's application subject to the finding that MDHHS improperly denied Petitioner's SDA application due to Petitioner failing to timely submit verification of disability.

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]