



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: January 6, 2017
MAHS Docket No.: 16-015991
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 herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor, and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny the Petitioner's State Emergency Relief (SER) application for non-emergency home repairs?

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 home repair assistance for repair of her roof for a home she is purchasing on land contract. Exhibit A.
2. The Petitioner pays a land contract payment on her home in the amount of \$ [REDACTED] monthly.
3. The Petitioner receives unearned income for Supplemental Security Income (SSI) in the amount of \$ [REDACTED] and Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$ [REDACTED] for total income of \$ [REDACTED]

4. The Department issued an SER Decision Notice finding that the Petitioner's shelter was not affordable and denied the Petitioner's SER application. Exhibit C.
5. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's denial of her SER application.

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 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 Petitioner applied for non-energy-related home repairs for repair of her roof in the amount of \$ [REDACTED] Exhibit C. The Department issued an SER Decision Notice on [REDACTED], denying the SER for non-energy home repair services application due to the shelter not being affordable. Exhibit C. The Department also determined that the Petitioner was not the deed owner as another basis for the denial in its Hearing Summary, although that reason was not included in the SER Decision Notice and is also an incorrect reason for denial. Persons buying a home on land contract do qualify as a homeowner. See ERM 304 (October 1, 2015), p. 1 and p. 6. The provisions of the policy clearly cover assistance with land contract payments, and land contracts are verification of home ownership. The evidence presented demonstrated that the Petitioner verified her land contract. Exhibit A.

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. SER also assists with home repairs to correct unsafe conditions and restore essential services. ERM 306, p.1

In this case, the Petitioner had applied for a non-energy home repair involving repair to her roof. The lifetime maximum for non-energy home-related repairs is \$ [REDACTED] per SER group. ERM 306, p. 3.

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. Issue home repair payments only if the repair(s) is essential to

remove a direct threat to health or safety or is required by law or a mobile home park regulation. The repair(s) must restore the home to a safe, livable condition. **SER does not pay for improvements or nonessential repairs.**

In addition, **all** of the following conditions must be met (unless specified for a particular service):

- An SER group member is an owner or purchaser of the home, or holds a life estate on the home with the responsibility for home repairs. If the home is co-owned, the cost of the emergency is not split between the co-owners or co-purchasers.
- The home is the SER group's permanent, usual residence.
- The home is not listed for sale.
- The home is not in jeopardy of loss. (This only applies to home repairs.) Deny repairs if the home is in jeopardy of loss due to unpaid property taxes or foreclosure of a mortgage or land contract unless a workable plan exists for paying the arrearage.
- The ongoing cost of maintaining the home is affordable to the SER group; see ERM 207, Housing Affordability.
- The SER group did not cause the emergency. Do **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.)
- The home is in livable condition and payment will guarantee safe, sanitary shelter both now and in the future. Do not approve any home ownership services payments for homes that are not in a livable condition or cannot be brought to a livable condition within the remaining SER home repair limit. ERM 306, pp. 4-5.

The Petitioner was denied SER assistance because the Department determined that her housing was not affordable because she did not have sufficient income to meet her total housing obligation. The total housing obligation cannot exceed 75 percent of the household SER group total net countable income. The Department's determination should have been based upon Petitioner's countable income of \$[REDACTED]. The budget

provided by the Department is incorrect, as they used rent of \$ [REDACTED] and income of \$ [REDACTED]. A review of the policy, as it should be applied in this case, also results in a determination the housing affordability condition is not met based upon Petitioner's net income. See Exhibit C. In addition, the Petitioner advised at the hearing that she gets assistance from her family from time to time with meeting her housing expenses but did not report that assistance to the Department in her SER application.

Housing affordability is a condition of eligibility for State Emergency Relief (SER) and applies only to Relocation Services (ERM 303) and Home Ownership Services and Home Repairs (ERM 304). Housing affordability does not apply to other SER services. ERM 207 (October 1, 2015), p. 1.

Determine whether an SER group meets the Housing Affordability requirement:

- Multiply the group's total net countable income by 75 percent. The result is the maximum total housing obligation the group can have based on their income, and be eligible for SER housing services, and
- Refer to the table at the end of this item for any increases in the basic 75 percent test if the group is renting and heat, electric or water/cooking gas is included in the rent. Multiply the resulting percentage by the group's total net countable income. The result is the absolute total housing obligation the group can have and be eligible for SER housing services.

Bridges documents affordability on the SER budget. ERM 207, p. 2.

Based upon the income provided and applying the affordability test, the Petitioner's income does not meet the affordability test. 75% of \$ [REDACTED] = \$ [REDACTED]. Thus, the maximum total housing obligation the Petitioner can have and be eligible for SER nonemergency home repair is \$ [REDACTED]. Thus, based upon the foregoing, the Department properly denied the Petitioner SER application for non-energy home repair as it correctly determined that the housing is not affordable. Even though the Department's budget was incorrect, based upon the evidence presented, it is determined that even if the budget for affordability was rerun, the resulting denial of the application would be correct.


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 because the housing was not affordable as required by Department policy.

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]

Via email

[REDACTED]