



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 27, 2017
MAHS Docket No.: 16-018308
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 January 26, 2017, from Lansing, Michigan. The Petitioner appeared on her own behalf, along with her husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER)?

FINDINGS OF FACT

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

1. Petitioner applied for SER on November 7, 2016, requesting \$ [REDACTED] for "medical health" purposes. She was requesting help buying a hot tub spa for home physical therapy as prescribed by [REDACTED] (Exhibit 1 Page 5).
2. On November 9, 2016, the Department denied Petitioner's application (Page 3).
3. The Department received Petitioner's hearing request, protesting the denial, on December 2, 2016.

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, Petitioner was asking for help in purchasing a hot tub that was prescribed by her doctor. She is going to water therapy regularly, and that is being paid for by Medicaid. The government is paying thousands of dollars for her to obtain therapy that, according to her doctor, could be done at home in a hot tub. She has made a compelling case for shifting tax dollars from one expense to another where the result would be a savings for the taxpayer. Unfortunately, that is not a reason that would allow the Department to deviate from policy.

ERM 209 (10/1/15) establishes the policy for Emergency Services. The only covered services are:

1. Emergency food;
2. Homeless prevention;
3. Emergency home repair;
4. Non-energy utilities;
5. Emergency Medical – allowed for medical services, and limited to a maximum of \$500;
6. Limited-cost household goods (maximum of \$500);
7. Limited-cost household items (maximum of \$100);
8. Emergency medical transportation;
9. Other Limited-cost items;
10. Bulk purchases (items to be distributed by the Department itself).

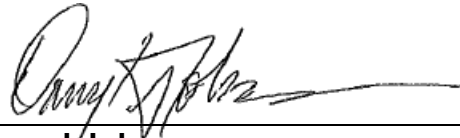
The closest categories in which a hot tub might fall would be emergency medical and household goods. But, the emergency medical is limited to medical services, and does not include medical equipment or devices. Household goods are things like tables, chairs, and beds, and “room air conditioners may be purchased or repaired only if the recipient is 55 or older or provides a statement from a physician that air conditioning is medically necessary.” ERM 209, p.3. Petitioner has a statement from her physician that the hot tub is necessary, but the policy is specifically limited to an air conditioner, and even then it is limited to \$█. There simply is no known policy that would allow the Department to assist Petitioner with the purchase of a hot tub.

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 Petitioner's SER application.

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

DJ/mc



Darryl Johnson
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]

Counsel for Petitioner

[REDACTED]