



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR



Date Mailed: February 17, 2017
MAHS Docket No.: 17-000725
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 February 14, 2017, from Lansing, Michigan. Petitioner was represented by himself. The Department was represented by Hearing Facilitator [REDACTED]. Department's Exhibit A, pages 1-20 was admitted into evidence.

Shortly after commencement of the hearing, Petitioner testified that he now understood the actions taken by the Department with regard to his Food Assistance Program (FAP), and did not wish to proceed with a hearing about the Food Assistance Program (FAP). The hearing proceeded on the State Emergency Relief (SER) issue Petitioner requested a hearing about.

ISSUE

Did the Department properly deny Petitioner's December 14, 2016, State Emergency Relief (SER) application for home ownership assistance with his 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 December 14, 2016, Petitioner submitted a State Emergency Relief (SER) application for home ownership assistance with his delinquent property taxes. Petitioner has delinquent property taxes for 2014, 2015, and 2016.
2. On December 15, 2016, the Department verified that Petitioner had a total of \$ [REDACTED] in delinquent property taxes against his residence.

3. On December 22, 2016, Petitioner was sent a State Emergency Relief Decision Notice (DHS-1419) which stated his application was denied because the amount of all past due taxes exceeds \$ [REDACTED]
4. On January 9, 2017, Petitioner submitted a hearing request.

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.

State Emergency Relief Manual (ERM) 304 Home Ownership (10-1-2015) provides in relevant part:

DEPARTMENT POLICY

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.

Covered Services

The following services are covered by this item:

Home ownership services.

Property taxes and fees.

Home Ownership Services

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

Tax foreclosure or sale.

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.

Eligibility Requirements

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.

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

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.

Verification

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.

During this hearing Petitioner argued that he only requested \$ [REDACTED] of assistance for the 2014 taxes because he is only at risk of foreclosure for the 2014 taxes being delinquent.

Petitioner's grievance centers on dissatisfaction with the department's current policy. The scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals.

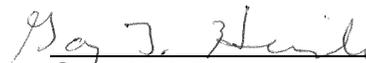
Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940); *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542, 303 NW2d 35 (1981); *Delke v Scheuren*, 185 Mich App 326, 460 NW2d 324 (1990), and *Turner v Ford Motor Company*, unpublished opinion per curium of the Court of Appeals issued March 20, 2001 (Docket No. 223082).

ERM 304, cited above, clearly defines total tax arrearage amount as the total for every year combined, not just for the tax years for which assistance is being requested. 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 December 14, 2016, State Emergency Relief (SER) application for home ownership assistance with his property taxes.

DECISION AND ORDER

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

GH/nr



Gary Heisler
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]