



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 6, 2017
MAHS Docket No.: 17-002187
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 three-way telephone hearing was held on March 15, 2017, from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator; and [REDACTED], Lead Child Support Specialist from the Office of Child Support (OCS).

ISSUE

Did the Department properly deny Petitioner's State Emergency Relief (SER) applications dated December 9, 2016, and January 26, 2017?

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's daughter, [REDACTED], date of birth of [REDACTED], has been in non-cooperation with the OCS since March 21, 2016, regarding Child A (date of birth of [REDACTED]).
2. Child A is Petitioner's grandson.
3. The daughter and grandson reside with Petitioner.
4. On July 26, 2015, the OCS sent the daughter a first contact letter.

5. On August 17, 2015, the OCS sent the daughter a second contact letter.
6. On January 25, 2016, the OCS resent the daughter a first contact letter.
7. On February 24, 2016, the OCS resent the daughter a second contact letter.
8. On March 21, 2016, the OCS sent the daughter a noncooperation notice. Exhibit A, p. 36.
9. Effective March 21, 2016, Petitioner was in non-cooperation with the OCS because she failed to identify the absent parent for Child A.
10. From on or about August 17, 2015 to December 19, 2016, the daughter had contacts with the OCS; however, she remains in non-cooperation with the OCS due to her failure to identify the absent parent.
11. On December 9, 2016, Petitioner applied for SER assistance with repairs to the basic structure, electricity, and heat. Exhibit A, p. 23.
12. On December 9, 2016, the Department sent Petitioner an SER Decision Notice informing her that her SER application dated December 9, 2016 was denied because her or a group member failed to cooperate with child support requirements and other denial reasons. Exhibit A, pp. 23-24.
13. On January 26, 2017, Petitioner reapplied for SER assistance with repairs to the basic structure, deposit/reconnect fees, electricity, heat, and water or sewage. Exhibit A, p. 11.
14. On January 30, 2017, the Department sent Petitioner an SER Decision Notice informing her that her SER application dated January 26, 2017 was denied because her or a group member failed to cooperate with child support requirements and other denial reasons. Exhibit A, pp. 11-13.
15. On February 10, 2017, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-4.

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148,

as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

Preliminary matter

As a preliminary matter, Petitioner also requested a hearing in which she disputed the closure of her Medical Assistance (MA) and Medicare Savings Program (MSP) benefits. Exhibit A, pp. 2-4. On January 19, 2017, the Department sent Petitioner a Health Care Coverage Notice informing her that her MA benefits would close effective February 1, 2017. Exhibit A, pp. 6-10. Shortly after commencement of the hearing, Petitioner indicated that her MA benefits were reinstated from the date of closure and therefore, her MA issue has been resolved. The Department agreed. Based on this information, the undersigned Administrative Law Judge finds that Petitioner's MA hearing issue is moot and therefore, her MA/MSP hearing request is DISMISSED.

SER applications

On December 9, 2016, and January 26, 2017, Petitioner applied for SER assistance. However, on both occasions, Petitioner's applications were denied because her or a group member failed to cooperate with child support requirements and other denial reasons. Exhibit A, pp. 11-13 and 23-24. Specifically, the Department indicated that Petitioner's daughter, who resides with her, is currently in non-cooperation with the OCS. Policy states that groups that are non-cooperative with the Office of Child Support are also ineligible for SER. ERM 203 (June 2013), p. 2. Because the daughter is a member of Petitioner's SER group who is in non-cooperative with OCS, the Department argues that Petitioner is ineligible for SER.

During the hearing, the OCS argued that the daughter is in non-cooperation due to her failure to establish paternity and/or obtain child support regarding the absent parent for Child A. The OCS caseworker indicated that the daughter has contacted OCS and she attempted to provide some information about the absent parent, including a possible name and physical description; however, the OCS has been unable to identify the individual based on the information provided by the daughter. The OCS indicated that she remains in non-cooperation with the OCS due to her failure to identify the absent parent.

In response, Petitioner testified that she does not understand how she can be penalized for the SER denials, when the non-cooperation is in regards to the daughter.

Petitioner's daughter was not present as a witness to provide testimony as to the non-cooperation.

Based on the foregoing information and evidence, the Department properly denied Petitioner's SER applications dated December 9, 2016, and January 26, 2017, in accordance with Department policy. Policy clearly states that groups that are non-cooperative with the Office of Child Support are also ineligible for SER. ERM 203, p. 2. The OCS caseworker provided credible testimony showing how Petitioner's daughter is in non-cooperation with the OCS due to her failure to establish paternity and/or obtain child support regarding the absent parent for Child A. The OCS caseworker provided a detailed history of its communications with the daughter and how she has been unable to provide verifiable information about the absent parent. Petitioner was unable to provide rebuttal testimony showing how her daughter was in cooperation with the OCS. Furthermore, Petitioner's daughter was not present as a witness to provide testimony as to the non-cooperation. Accordingly, the undersigned ALJ finds that the evidence, along with the OCS caseworker's testimony, established by a preponderance of evidence that the daughter has been non-cooperative with the OCS. As such, because the daughter, who is a member of the SER group, is non-cooperative with the OCS, Petitioner was ineligible for SER benefits and the applications were properly denied. See ERM 203, p. 2.

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 properly denied Petitioner's SER applications dated December 9, 2016, and January 26, 2017.

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

IT IS ALSO ORDERED that Petitioner's **MA/MSP** hearing request is **DISMISSED**.

EF/tm

Eric J. Feldman
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]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

CC:

[REDACTED]
[REDACTED]