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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 12, 2017  
MAHS Docket No.: 17-002979  
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 telephone hearing was held on April 3, 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], Assistant Payment Supervisor.

### **ISSUE**

Did the Department properly deny Petitioner's applications for State Emergency Relief (SER) assistance with mortgage foreclosure?

### **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 28, 2016, Petitioner applied for SER assistance with mortgage / land contract. Exhibit A, p. 1.
2. On January 3, 2017, the Department sent Petitioner an SER Verification Checklist requesting verification of bank statement, need for SER energy services, required payments for shelter, SER home repairs ownership, and SER amount verification. Exhibit A, pp. 16-17. The verifications were due back on January 10, 2017. Exhibit A, p. 16.

3. On January 11, 2017, the Department sent Petitioner an SER Decision Notice notifying her that her mortgage / land contract application was denied based on her failure to comply with the verification requirements. Exhibit A, pp. 18-19.
4. On February 7, 2017, Petitioner applied for SER assistance with mortgage / land contract. Exhibit A, p. 1.
5. On February 8, 2017, the Department sent Petitioner an SER Verification Checklist requesting verification of need for SER energy services, required payments for shelter, SER home repairs ownership, SER amount verification, and checking account. Exhibit A, pp. 20-21. The verifications were due back on February 15, 2017. Exhibit A, p. 20.
6. On February 16, 2017, the Department sent Petitioner an SER Decision Notice notifying her that her mortgage / land contract application was denied based on her failure to comply with the verification requirements. Exhibit A, pp. 22-23.
7. On February 22, 2017, Petitioner applied for SER assistance with mortgage / land contract. Exhibit A, p. 1.
8. On February 22, 2017, the Department sent Petitioner an SER Decision Notice notifying her that her mortgage / land contract application was denied because the total amount of her income/asset copayment and her shortfall (unmet required payments) is equal to or greater than the amount needed to resolve the emergency. Exhibit A, pp. 24-25.
9. On February 22, 2017, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-3.

### **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.

#### **Preliminary matters**

First, Petitioner requested a hearing because she is disputing the denial of her SER applications dated December 28, 2016; February 7, 2017; and February 22, 2017.

Exhibit A, pp. 1-3. The undersigned Administrative Law Judge (ALJ) will address each application denial separately.

Second, Petitioner also applied for heat and electricity in the December 28, 2016 application and was denied for these services as well; however, Petitioner testified that she is not disputing the denial of her SER request for heat and electricity. Exhibit A, p. 18.

Third, Petitioner submitted a fourth SER application on March 15, 2017 and was again denied for this application. However, after a thorough review of the evidence record, the undersigned lacks the jurisdiction to address Petitioner's SER application dated March 15, 2017 because the denial occurred subsequent to her hearing request. See BAM 600 (October 2016), p. 6 (The client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days). Petitioner can request another hearing to dispute the March 15, 2017 application, but as long as the hearing request is received within 90 calendar days of the SER Decision Notice. See BAM 600, p. 6.

#### **SER application dated December 28, 2016**

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. ERM 304 (October 2015), p. 1. SER also assists with home repairs to correct unsafe conditions and restore essential services. ERM 304, p. 1. ERM 304 includes assistance with home ownership services, which includes house payments (mortgage, land contract payment or mobile home sales contract), including principal and interest, legal fees and escrow accounts for taxes and insurance. ERM 304, p. 1. Home ownership services payments are only issued to save a home threatened with loss due to mortgage foreclosure. ERM 304, p. 1. ERM 304 also listed additional conditions that must be met for eligibility requirements. See ERM 304, pp. 4-5.

In this case, Petitioner applied for SER assistance with mortgage / land contract on December 28, 2016. Exhibit A, p. 18. The Department testified that it did not receive verification of the past 6 months of her mortgage payments and proof of foreclosure/court action. Exhibit A, pp. 1 and 18. The verifications were due back by January 10, 2017. Exhibit A, p. 16. Prior to the due date, the Department testified that it did receive from Petitioner verification of income, bank statements, a statement from her mortgage company, utility bills, and a consolidated inquiry (uploaded by the caseworker). However, the Department testified that it did not receive verification of the 6 months of mortgage payments and proof of foreclosure/court action. As such, the Department argued that she failed to submit all the requested verifications, which resulted in the denial of her application.

In response, Petitioner testified that she submitted all of the requested verifications when asked by the Department. As part of the evidence record, Petitioner included (i) a verification of her bank statement from December 10, 2016 to January 10, 2017; (ii) a letter from Habitat for Humanity Michigan Fund dated February 3, 2017, which addressed her mortgage arrearage; (iii) a corporate warranty deed; and (iv) a loan history summary showing her payments for the period of June 2016 to February 2017 and the summary was ran on February 16, 2017. Exhibit A, pp. 4-13 and 28-29.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (October 2015), p. 6. The due date is eight calendar days beginning with the date of application. ERM 103, p. 6. If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. ERM 103, p. 6. This does not change the standard of promptness date. ERM 103, p. 6.

The Department uses the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 6.

The client must make a reasonable effort to obtain required verifications. ERM 103, p. 6. The specialist must assist if the applicant needs and requests help. ERM 103, p. 6. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, use the best available information. ERM 103, p. 6. If no evidence is available, the specialist must use their best judgment. ERM 103, p. 6.

Based on the foregoing information and evidence, the Department properly denied Petitioner's SER application with mortgage / land contract effective January 11, 2017 in accordance with Department policy. Exhibit A, pp. 18-19. In this case, the Department established that Petitioner failed to return verification of the 6 months of mortgage payments and proof of foreclosure/court action by the verification due date of January 10, 2017. Exhibit A, pp. 16-19. Petitioner claimed that she submitted the requested verifications. However, a review of the evidence record found that the 6 months of mortgage payments and proof of foreclosure/court verifications were all submitted in February 2017, which was after the verification due date. Exhibit A, pp. 4-13 and 28-29. Petitioner did not provide any evidence showing that she submitted these two requested verifications prior to the due date. As such, the Department properly denied the SER application in accordance with Department policy. See ERM 103, p. 6.

### **SER application dated February 7, 2017**

On February 7, 2017, Petitioner again applied for SER assistance with mortgage / land contract. Exhibit A, p. 1. The Department testified that it again did not receive verification of the past 6 months of her mortgage payments and proof of foreclosure/court action. Exhibit A, pp. 1 and 22. The verifications were due back by February 15, 2017. Exhibit A, p. 20. Prior to the due date, the Department testified that it receive verification of a bank statement, a consolidated inquiry (uploaded by the

caseworker), a deed, and a letter from Habitat for Humanity Michigan Fund dated February 3, 2017. However, the Department testified that verification from Habitat for Humanity Michigan Fund was not sufficient proof of her foreclosure/court action. The Department testified that is also received verification of her past 6 months of her mortgage payments on February 16, 2017, but this was after the due date. Exhibit A, p. 29. The Department argued that Petitioner failed to submit all the requested verifications, which resulted in the denial of her application.

In response, Petitioner reiterated the same testimony that she submitted all of the requested verifications when asked by the Department.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (February 2017), p. 6. The due date is eight calendar days beginning with the date of application. ERM 103, p. 6. If the application is not processed on the application date, the deadline to return verifications is eight calendar days from the date verification is requested. ERM 103, p. 6. This does not change the standard of promptness date. ERM 103, p. 6.

Note: When the eighth day falls on a state-observed holiday, the due date for verifications to be returned will be extended to the following business day. ERM 103, p. 6.

The Department uses the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 6.

The client must make a reasonable effort to obtain required verifications. ERM 103, p. 6. The specialist must assist if the applicant needs and requests help. ERM 103, p. 6. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, use the best available information. ERM 103, p. 6. If no evidence is available, the specialist must use their best judgment. ERM 103, p. 6.

Based on the foregoing information and evidence, the Department properly denied Petitioner's SER application with mortgage / land contract effective February 16, 2017 in accordance with Department policy. Exhibit A, pp. 22-23. In this case, the Department again claimed that Petitioner failed to return verification of the 6 months of mortgage payments and proof of foreclosure/court action by the verification due date of February 15, 2017. Exhibit A, p. 20. However, the undersigned disagrees that Petitioner did not submit verification of proof of foreclosure/court action. The Department acknowledged that prior to the due date, it received a letter from Habitat for Humanity Michigan Fund dated February 3, 2017, which addressed her mortgage arrearage. Exhibit A, p. 8. But, the Department testified that verification was not sufficient proof of her foreclosure/court action. The undersigned disagrees. Policy states the following for foreclosure/forfeiture, or eviction from land or a mobile home park:

- Court order or a written statement from the contract holder or mortgagee that there is a payment arrearage and failure to correct the deficiency may result in foreclosure or forfeiture proceedings.
- A court summons, order or judgment that will result in the SER group becoming homeless.

ERM 304, p. 6.

A review of the written statement from the contract holder or mortgagee states that (i) her loan is in default of the Note and Security Deed, (ii) to cure the default she must pay ██████ on or before March 5, 2017, and (iii) failure to cure the default by the due date "...may result in acceleration of the sums secured by said Security Deed, and a *foreclosure sale of your property*, as well as other remedies available to the lender." Exhibit A, p. 8 (emphasis added). The undersigned finds that the above statement Petitioner provided is sufficient verification of her foreclosure/court action and that it was provided before the verification due date. See ERM 304, p. 6. Nevertheless, the Department also requested that she submit verification of her 6 months of mortgage payments by February 15, 2017, which she failed to do so. The Department established that she provided the verification of her 6 months of mortgage payments on February 16, 2017, which was after the due date. See Exhibit A, p. 29. It should be noted that this was a proper verification request of her 6 months of mortgage payments from the Department. See ERM 204 (February 2017), pp. 1-4 and ERM 304, p. 4. Because Petitioner failed to submit verification of her requirement payments/shortfall by the February 15, 2016 due date, the Department acted in accordance with Department policy when it denied her application. See ERM 103, p. 6; ERM 204, pp. 1-4; and ERM 304, p. 4.

#### **SER application dated February 22, 2017**

In this case, Petitioner applied for SER assistance with mortgage / land contract on February 22, 2017. Exhibit A, p. 1. On February 22, 2017, the Department sent Petitioner an SER Decision Notice notifying her that her mortgage / land contract application was denied because the total amount of her income/asset copayment and her shortfall (unmet required payments) is equal to or greater than the amount needed to resolve the emergency. Exhibit A, pp. 24-25. Petitioner's total need request was ██████, which is the amount reflected in the letter from ██████ dated February 3, 2017.

For Home Ownership Services, ERM 304 lists additional requirements that must be met for eligibility purposes, which includes that the SER group did not cause the emergency. ERM 304, p. 4. The Department does not authorize Home Ownership Services if the emergency was client-caused. ERM 304, p. 4.

SER does not assist a group who failed to use their available money to prevent a shelter, energy or utility emergency. ERM 204 (February 2017), p. 1. A client-caused emergency is when an SER group fails to pay required payments for the six-month period prior to the month of application. ERM 204, p. 1.

Required payments are actual shelter costs or required energy and/or utility payments as outlined in the Required Payments tables in ERM 301 & ERM 302. ERM 204, p. 1. Required payment amounts are based on the number of group members in the home each month during the required payment period. ERM 204, p. 1. Required payments include the deceased if alive during the required payment period. ERM 204, p. 1.

At the hearing, the Department presented a SER Unmet Need budget to show that Petitioner had a shortfall that exceeded the total need. Exhibit A, p. 27. Below is the Department's shortfall assessment:

	August	September	October	November	December	January	Total
<b>Actual Obligation / Required Payment</b>	████	████	████	████	████	████	████
████	██	████	████	████	██	██	████
████	████	██	██	██	████	████	████

Exhibit A, p. 27. Based on the above budget, the Department calculated Petitioner's shortfall to be █████ █████ shortfall of █████ plus December shortfall of █████ plus January shortfall of █████. Exhibit A, p. 27. The Department argued that the total shortfall of \$████ exceeded the total need of █████; thus it properly denied the application because the shortfall exceeds the need. See ERM 103 (February 2017), p. 4 (If the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied unless good cause is granted).

In response, Petitioner did not dispute the calculations the Department used above. However, policy does state that good cause may exist as a basis for an applicant's failure to prevent an emergency. ERM 204, p. 1. The Department establishes good cause for home ownership services (except property taxes). ERM 204, p. 1.

Good cause for failure to meet obligations for shelter, energy, or utilities exists if:

- The SER group's net countable income from all sources during each month the group failed to pay their obligations was less than the amount shown for the SER group size in the good cause table.

- The income was not reduced by a disqualification of SSI or department benefits for failure to comply with a program requirement.

ERM 204, p. 2. The good cause amount for a SER group size of one is [REDACTED], which is what Petitioner's group size was in this case. ERM 204, p. 3.

If the emergency resulted from unexpected expenses related to maintaining or securing employment, the Department verifies expenses for each month the group failed to pay their obligations. ERM 204, p. 2. The employment related expenses must equal or exceed the monthly obligation. ERM 204, p. 2. Payment differences are the responsibility of the SER group. ERM 204, p. 2.

Based on the above information, Petitioner did not meet any of the good cause reasons. The Department calculated Petitioner's net countable income to be [REDACTED] during the last six months prior to the application month. See Exhibit A, p. 27. Petitioner did not dispute the calculation of her net countable income. Petitioner's net countable income was greater than the good cause amount of [REDACTED] for a SER group size of one. ERM 204, pp. 2 and 3. Moreover, Petitioner's testimony indicated that she did not meet the good cause reason for the unexpected expenses related to maintaining or securing employment. See ERM 204, p. 2.

Based on the foregoing information and evidence, the Department properly denied Petitioner's SER assistance effective February 22, 2017, in accordance with Department policy. As stated above, Petitioner did not dispute the calculation used in the SER Unmet Need budget. Exhibit A, p. 27. The evidence established that Petitioner's shortfall calculation of [REDACTED] exceeded the total need of [REDACTED]. Exhibit A, p. 27. Because Petitioner's shortfall exceeds the need and she did not meet any of the good cause requirements, the Department properly denied the SER request in accordance with Department policy. ERM 103, p. 4; ERM 204, pp. 1-3; and ERM 304, p. 4.


### **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 28, 2016; February 7, 2017; and February 22, 2017.

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

**IT IS ALSO ORDERED** that Petitioner's dispute with her SER application dated March 15, 2017 is **DISMISSED** for lack of jurisdiction.

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**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]