



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 29, 2018
MAHS Docket No.: 17-015410
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Michael Crews

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; 42 CFR 438.400 to 438.424; 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 January 11, 2018, from Detroit, Michigan. The Petitioner appeared by telephone and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly withhold payment pursuant to Petitioner's State Emergency Relief (SER) application for failure to submit the required copayment?

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 January 25, 2017, the Department received an SER application from Petitioner for assistance with water and rent to prevent eviction (Exhibit A, p. 76).
2. The Department mailed an SER notice dated January 31, 2017 to Petitioner and she was informed that she was required to pay [REDACTED] before the Department could release funds of [REDACTED]. Petitioner's request for rent assistance was denied as the Department determined that she did not have an emergency (Exhibit A, p. 72).
3. On June 30, 2017, Petitioner applied for SER for assistance with her water bill (Exhibit A, p. 52).

4. The Department mailed an SER notice dated July 7, 2017 to Petitioner regarding her June 30, 2017 SER application and informed her that the Department could not make a payment unless verification that Petitioner's co-payment of [REDACTED] had been received.
5. On August 17, 2017, Petitioner applied for SER benefits for roof repairs to her home and submitted repair estimates on August 17, 2017 and August 18, 2017 (Exhibit A, pp. 30-37).
6. The Department mailed an SER decision notice dated August 25, 2017 to Petitioner and informed her that the SER application was denied because the 2016 summer and winter property taxes were delinquent on Petitioner's home (Exhibit A, p. 27).
7. On September 7, 2017, Petitioner reapplied for SER for the roof repairs and was approved (Exhibit A, p. 4).
8. The Department considered Petitioner's repair estimate for [REDACTED] and mailed an SER decision notice dated September 15, 2017 to Petitioner which informed her that the [REDACTED] lifetime maximum toward her roof repair would not be paid until verification of Petitioner's co-payment of [REDACTED] was received by the Department ([REDACTED]) (Exhibit A, p. 20 and p. 4).
9. The Department required proof of the payment to be submitted by October 6, 2017. Otherwise, the [REDACTED] would not be paid and Petitioner would be required to reapply.
10. On November 16, 2017, Petitioner submitted a hearing request to dispute the Department's action as to all of her SER denials for the year (Exhibit A, p. 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.

SER notice dated January 31, 2017 and July 17, 2017

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. The Department provides an administrative hearing to review the decision and determine its appropriateness in accordance to policy. This item includes procedures to meet the minimum requirements for a fair hearing. BAM 600 (October 2017), p. 1. The client 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. BAM 600, p. 6.

Here, a hearing request had to be filed within 90 days of the January 31, 2017 and July 7, 2017 Notice of Case Actions to dispute the Department's actions in those notices. Petitioner filed her hearing request on November 16, 2017. Because 90 days had lapsed since Petitioner was notified of the aforementioned case actions, Petitioner's November 16, 2017 hearing request was untimely as to these SER notices only. Therefore, the Administrative Law Judge does not have jurisdiction to hear any issue regarding the subject case actions.

SER Decision Notice dated September 15, 2017

SER benefits assist with home repairs to correct unsafe conditions and restore essential services. ERM 304 (October 2017), p. 1. Non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement. ERM 304, p. 3. Authorization for payment is only made 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. ERM 304, p. 3. The repair(s) must restore the home to a safe, livable condition. ERM 304, p. 3. SER does not pay for improvements or nonessential repairs. ERM 304, p. 3. The lifetime maximum for non-energy-related home repairs is \$1,500.00 per SER group. ERM 304, p. 3. All non-energy related repairs approved since 12/1/1991 count toward this maximum. ERM, p. 3. For repairs to the home, the Department must obtain at least one estimate of the repair cost. ERM 304, p. 5. More may be requested, depending on case circumstances. ERM 304, p. 5. The home must not be 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. ERM 304, p. 4.

In this case, Petitioner submitted a hearing request on November 16, 2017 to dispute the Department's action on September 15, 2017 regarding her roof repairs.

The Department testified that, as of August 25, 2017, the 2016 summer and winter property taxes were delinquent on Petitioner's home. Petitioner testified that the taxes were paid on September 7, 2017. This is confirmed by the fact that Petitioner was subsequently approved for [REDACTED] toward her roof repairs, but she had to provide verification that her co-payment of \$ [REDACTED] was received by the Department by October 6, 2017 before the [REDACTED] would be paid. Petitioner acknowledged that she was unable to afford the co-payment and that she had sought help with the amount, but she was denied assistance. Petitioner was again advised that the Department had to receive the co-payment first before any funds could have been released. Because the

maximum available to Petitioner for roof repairs was \$ [REDACTED], the Department acted in accordance with policy when it required Petitioner to pay the balance for the repairs before it paid the \$ [REDACTED]

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 did not pay the [REDACTED] payment for Petitioner's roof repairs.

DECISION AND ORDER

The Petitioner's November 16, 2017 hearing request as to the Department's January 31, 2017 and July 7, 2017 SER notices is **DISMISSED**.

The Department's decision as to the September 15, 2017 SER notice is **AFFIRMED**.

MC/tm



Michael Crews

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]
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[REDACTED]
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