



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: June 4, 2018
MAHS Docket No.: 18-003566
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 telephone hearing was held on May 29, 2018, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Comella Brooks, specialist.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's application for State Emergency Relief (SER) dated February 21, 2018.

The second issue is whether MDHHS properly denied Petitioner's SER application dated April 2, 2018.

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 February 21, 2018, Petitioner applied for SER seeking assistance with a roof repair.
2. On March 2, 2018, MDHHS denied Petitioner's application due to Petitioner's alleged failure to provide unknown information. A corresponding written notice did not state what information that Petitioner failed to provide.
3. On April 2, 2018, Petitioner applied for SER seeking assistance with mold removal. Petitioner's application reported no rental obligation.

4. On April 5, 2018, MDHHS denied Petitioner's SER application due to Petitioner not being able to afford a rent of \$400.
5. On April 5, 2018, Petitioner requested a hearing to dispute the denial of SER applications dated February 21, 2018, and April 5, 2018.
6. During an administrative hearing on May 30, 2018, MDHHS could not state what information that Petitioner failed to provide justifying denial of Petitioner's SER application dated February 21, 2018. MDHHS also did not assert that they mailed Petitioner a Verification Checklist requesting information.

CONCLUSIONS OF LAW

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute the denial of an SER application dated February 21, 2018, requesting assistance for a roof repair. MDHHS did not submit the corresponding written notice of denial but credibly stated that a written notice dated March 2, 2018, stated that Petitioner's SER was denied on March 5, 2018, due to Petitioner's failure to provide information.

"Clients must be informed of all verifications that are required and where to return verifications. The due date is **eight calendar days** beginning with the date of application." "Use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications." ERM 103 (January 2018) p. 7.

MDHHS did not provide any information about the SER denial in their Hearing Summary. MDHHS did not provide any documentation supporting the denial of Petitioner's SER application as part of their hearing packet. During the hearing, MDHHS was unable to state what information Petitioner failed to submit. MDHHS also did not allege that a SER Verification Checklist was mailed to Petitioner before Petitioner's application was denied.

Given the limited evidence, it must be found that MDHHS failed to establish that Petitioner's SER application dated February 21, 2018, concerning roof repair, was properly denied. MDHHS will be ordered to reinstate Petitioner's SER application and to process it according to their policies, including requesting any needed information before denial.

Petitioner also requested a hearing to dispute the denial of a second SER application; this one was dated April 2, 2018, and concerned mold removal from Petitioner's home. MDHHS presented a State Emergency Relief Decision Notice (Exhibit A, pp. 1-3) dated April 3, 2018. The notice informed Petitioner of a denial based on the unaffordability of Petitioner's housing.

Housing affordability is a condition of eligibility for SER for home repairs. MDHHS is to only authorize SER for services if the SER group has sufficient income to meet ongoing housing expenses. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. MDHHS is to deny SER if the group does not have sufficient income to meet their total housing obligation. The total housing obligation cannot exceed 75 percent of the group's total net countable income. ERM 207 (October 2015) p. 1.

MDHHS' Hearing Summary stated that Petitioner's housing affordability calculation factored Petitioner's rent of \$█/month, property taxes of \$█ and a monthly income of \$█ MDHHS did not provide a budget verifying how Petitioner's housing was deemed unaffordable. During the hearing, MDHHS was given time to explain why a \$█ monthly rent was used to calculate Petitioner's housing affordability; MDHHS was unable to do so.

Petitioner's testimony responded that she owned her home and did not pay a monthly rent of \$█ Petitioner's testimony was consistent with her SER application which MDHHS testimony acknowledged reported a monthly rent or mortgage obligation of \$0.

Given the evidence, MDHHS failed to establish that Petitioner's housing affordability was correctly calculated. MDHHS will be ordered to reinstate Petitioner's SER application and to recalculate Petitioner's housing affordability.


DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER applications concerning a roof repair and mold removal. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Re-register Petitioner's applications dated February 21, 2018, and April 2, 2018;
- (2) Initiate processing of Petitioner's SER applications in accordance with MDHHS policy.

The actions taken by MDHHS are **REVERSED**.

CG/



Christian Gardocki
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) 763-0155; 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

Denise McCoggle
MDHHS-Wayne-15-Hearings

Petitioner

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T Bair
E Holzhausen
C Gardocki
MAHS