



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: March 13, 2019
MAHS Docket No.: 19-000461
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 March 6, 2019, from Lansing, Michigan. The Petitioner was represented by ██████████ ██████████ Authorized Representative. ██████████ ██████████ also appeared and testified. The Department of Health and Human Services (Department) was represented by Natalie McLaurin Hearing Facilitator. Department Exhibit 1, pp. 1-32 was received and admitted. Petitioner Exhibit A, pp. 1-3 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's State Emergency Relief (SER) application?

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 ██████████ ██████████ 2018, Petitioner applied for SER seeking assistance with furnace repair.
2. On ██████████ ██████████ 2018, a State Emergency Relief Decision Notice was issued denying the application because the home was in jeopardy of loss.
3. On January 4, 2019, Petitioner requested hearing disputing the denial of SER.
4. The property taxes for ██████████ ██████████ Michigan are current. (Ex. A, p.2)

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.

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. Issue home repair payments only 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. The repair(s) must restore the home to a safe, livable condition. **SER does not pay for improvements or nonessential repairs.**

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

- An SER group member is an owner or purchaser of the home, or holds a life estate on the home with the responsibility for home repairs. If the home is co-owned, the cost of the emergency is not split between the co-owners or co-purchasers.
- The home is the SER group's permanent, usual residence.
- The home is not listed for sale.
- The home is not in jeopardy of loss. (This only applies to home repairs.) Deny repairs if the home is 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

In this case, the Department denied the application because the property taxes on the home were allegedly unpaid going back to 2015 based on information received from the county. (Ex.1, pp. 15-19). Petitioner's authorized representative testified at hearing that the property taxes were current. Updated information was provided at hearing showing that there were no outstanding property taxes on the home located at [REDACTED] Michigan. Therefore, the denial due to home in jeopardy of loss was improper and incorrect. ERM 304

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 did not act in accordance with Department policy when it denied Petitioner's SER application because the home was in jeopardy of loss.


DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate and reprocess the SER application going back to the date of application
2. Award SER benefits if Petitioner is found otherwise eligible

AM/nr



Aaron McClintic
Administrative Law Judge
for Robert Gordon, 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

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI
48607

Saginaw County DHHS- via electronic
mail

BSC2- via electronic mail

T. Bair- via electronic mail

E. Holzhausen- via electronic mail

Authorized Hearing Rep.

[REDACTED]
[REDACTED] MI
[REDACTED]

Petitioner

[REDACTED]
[REDACTED] MI
[REDACTED]