



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: September 20, 2019
MOAHR Docket No.: 19-007537
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 August 21, 2019, from Detroit, Michigan. Petitioner appeared for the hearing with her husband, [REDACTED]. The Department of Health and Human Services (Department) was represented by Julie Bair, Hearing Facilitator and Carol Ochamphaugh, Assistance Payments Worker.

ISSUE

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

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 and her husband reside in a mobile home.
2. On or around June 10, 2019, Petitioner sent the Department a Purchase Agreement dated May 29, 2019 and executed between Petitioner and [REDACTED] to purchase the mobile home for \$2,500. The \$2,500 was to be paid by Petitioner no later than June 21, 2019. (Exhibit A, pp. 7; Exhibit 1)
3. After a phone conversation with Petitioner, the Department learned that in filing the Purchase Agreement, Petitioner was attempting to apply for SER assistance. In response, the Department sent Petitioner a SER Application and the related Verification Checklist (VCL) instructing her to supply a copy of the letter from the

bank showing the amount due for the mobile home and current bank statements. Petitioner was instructed to complete the SER application and return it to the Department.

4. On or around [REDACTED], Petitioner submitted a SER application requesting assistance with a mortgage in the amount of \$2,500. With the application, Petitioner provided the Department with bank statements and the Purchase Agreement. (Exhibit A, pp.8-23)
5. On June 24, 2019, the Department sent Petitioner an Application Notice, notifying her that the service that she has requested (paying on loan) is not covered by SER policy and thus, the SER application was denied. (Exhibit A, pp. 24-27)
6. On July 10, 2019, Petitioner requested a hearing disputing the denial of the SER application. (Exhibit A, pp.28-29)

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 helps to prevent loss of a home if no other resources are available in the home will be available to provide safe shelter for the SER group in the foreseeable future. Home ownership services include: house payments (mortgage, land contract payment or mobile home sales contract); property taxes and fees; mobile home lot rent for owners or purchasers of mobile homes; and house insurance premiums that are required pursuant to the terms of a mortgage or land contract. ERM 304 (October 2018), pp. 1-2.

Additionally, home ownership services payments are only issued to save a home threatened with loss due to: mortgage foreclosure; land contract forfeiture; tax foreclosure or sale; court ordered eviction of a mobile home from land or a mobile home park; or repossession for failure to meet an installment loan payment for a mobile home. ERM 304, pp. 1-2.

In this case, Petitioner requested a hearing disputing the Department's denial of her [REDACTED] SER application. At the hearing, the Department testified that upon review of the SER application, which indicated that Petitioner sought assistance with a mortgage in the amount of \$2,500, and the Purchase Agreement that was filed with the application, it determined that Petitioner was not eligible for SER, as the service

requested was not covered by the SER policy referenced above. Specifically, the Department argued that based on the information obtained from the SER application and the Purchase Agreement, it appeared as though assistance was being requested to purchase the mobile home that Petitioner was already living in and thus, did not meet the criteria identified in ERM 304 for home ownership services.

At the hearing, Petitioner's husband explained that he and his wife are living in a mobile home that was owned by [REDACTED] mother ([REDACTED]) who had gotten behind on mortgage/loan payments. As a result, in January 2019, a Judgment Claim and Delivery was entered by the 10th Judicial District Court ordering possession and delivery of the mobile home by [REDACTED], to [REDACTED]. Petitioner provided a copy of the Judgment Claim and Delivery (Judgment) for review at the hearing, however, it is noted that this document was not previously provided to the Department. (Exhibit 1).

Petitioner's husband testified that he was informed he could make an offer to purchase the mobile home from [REDACTED] or face eviction. It was established that on May 29, 2019, Petitioner and [REDACTED] executed the Purchase Agreement, wherein Petitioner intended to purchase the mobile home for \$2,500, which was to be paid by June 21, 2019. The Purchase Agreement was to resolve the pending litigation in the 10th District Court. (Exhibit 1). Petitioner's husband asserted that the SER application was submitted to assist with making the \$2,500 payment to the bank. It was further established through the documentation provided by Petitioner during the hearing that, because the \$2,500 payment was not timely made, a Motion for Order to Seize Property (Motion) was filed on August 14, 2019, in order for [REDACTED] to secure possession of the mobile home in connection with the 10th District Court Judgment. A hearing was to be held on September 6, 2019 to address [REDACTED] Motion. (Exhibit 1)

While Petitioner provided the undersigned Administrative Law Judge with the documentation included with Exhibit 1 at the hearing, there was no evidence that this information was provided to the Department at any point prior to the hearing. Thus, at the time the SER application was filed, the Department did not have any information concerning the Judgment, the context of the Purchase Agreement, the subsequent August 14, 2019 Motion, or the September 6, 2019 hearing on the Motion.

Upon review, although house payments including mortgages or mobile home sales contracts are considered home ownership services that could be covered under SER policy, there was no evidence provided to the Department to establish that at the time of the [REDACTED], SER Application, the mobile home was threatened with loss due to: mortgage foreclosure; land contract forfeiture; tax foreclosure or sale; court ordered eviction of a mobile home from land or a mobile home park; or repossession for failure to meet an installment loan payment for a mobile home. ERM 304, pp. 1-2. Therefore, the Department was not authorized to approve home ownership service payments at the time of the application because it was not aware that the mobile home had been threatened with loss due to a foreclosure or eviction.

Petitioner was informed that she and her husband were entitled to submit a new SER application to have their eligibility reviewed in light of the information provided to the Department during the hearing.

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 denied Petitioner's [REDACTED] SER application.

DECISION AND ORDER

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

ZB/tlf



Zainab A. Baydoun
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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via Email:

MDHHS-Calhoun-Hearings
BSC3 Hearing Decisions
T. Bair
E. Holzhausen
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]