



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS

SHELLY EDGERTON
DIRECTOR



Date Mailed: September 26, 2017
MAHS Docket No.: 17-009863
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 telephone hearing was held on September 20, 2017, from Detroit, Michigan. The Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Emily Luther, Assistance Payments Supervisor and Rashawn Young, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for State Emergency Relief (SER) assistance with furnace repair/replacement?

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 [REDACTED], 2017 Petitioner submitted an application for SER assistance with furnace (HVAC) repair/replacement. (Exhibit A)
2. On July 14, 2017 the Department sent Petitioner a SER Decision Notice informing her that her request for assistance with furnace repair/replacement was denied on the basis that the application for energy related home repairs was not made during the crisis season which runs from November 1 to May 31. (Exhibit B)
3. On July 20, 2017 Petitioner requested a hearing disputing the denial of her SER application.

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 assists with home repairs to correct unsafe conditions and restore essential services. ERM 304 (October 2015), p. 1. The Low Income Home Energy Assistance Program (LIHEAP) is the funding source for energy-related repairs. Repair or replacement of a non-functioning furnace is currently the only allowable energy-related home repair. The lifetime maximum for energy-related home repairs is \$4,000. ERM 304, p.2. Additionally, for energy-related emergencies, the SER crisis season runs from November 1 through May 31. Requests for those services will be denied June 1 through October 31. ERM 304, p. 2.

In this case, it was undisputed that on [REDACTED], 2017 Petitioner applied for SER assistance with the repair/replacement of her HVAC system, which the Department considers an energy-related home repair. (Exhibit A). The Department denied Petitioner's request for assistance as it was filed outside of the designated November 1 to May 31 crisis season. (Exhibit B). Petitioner argued that implementing a policy that has a crisis season limitation is illegal and not good legislation. Petitioner further asserted that because she is considered a disabled individual under the Americans with Disabilities Act, the Department, as a public entity, is not authorized to deny her request for SER assistance pursuant to 28 CFR § 35.130. In this case however, and upon review of the legal citation relied upon by Petitioner, Petitioner's request for SER assistance was not denied on the basis of her disability. Rather, it was denied based on a Department policy that is applicable to all applicants, including those who are disabled or not disabled. Thus, had a non-disabled person submitted an SER application for assistance with energy-related home repairs during a period outside the crisis season, the Department would have denied the application for the same reason. Petitioner raised additional equitable arguments that the undersigned Administrative Law Judge does not retain any jurisdiction to address with this Hearing Decision.

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], 2017 SER application.

DECISION AND ORDER

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



ZB/tlf

Zainab A. Baydoun
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

Via Email:

MDHHS-Wayne-18-Hearings
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E. Holzhausen
T. Bair
MAHS

Petitioner – Via First-Class Mail:

