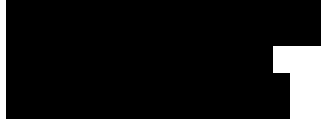




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: November 6, 2017
MAHS Docket No.: 17-012500
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 November 2, 2017, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Karen Brown-Shelton, Assistance Payments Worker.

ISSUE

Did the Department properly deny Petitioner's application for 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 [REDACTED], 2017, Petitioner submitted an application for SER benefits for non-energy repairs to her home (Exhibit A).
2. On [REDACTED], 2017, an interview was completed related to Petitioner's application for SER benefits.
3. On August 18, 2017, the Department sent Petitioner a State Emergency Relief Decision Notice informing Petitioner that her request for SER benefits was denied.
4. On September 15, 2017, Petitioner submitted a request for hearing disputing the Department's actions.

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.

In this case, Petitioner submitted an application for SER benefits for repairs to her home on [REDACTED], 2017. Petitioner had been involved in a domestic dispute and her door had been damaged. Petitioner's front door sustained enough damage that it was no longer able to lock. Petitioner felt that the inability to lock her front door posed a security threat.

SER benefits assist with home repairs to correct unsafe conditions and restore essential services. ERM 304 (October 2015), 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 per SER group. ERM 304, 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 Department testified Petitioner's application for SER benefits was denied because she failed to submit any repair estimates. The Department testified Petitioner was advised during the interview conducted on [REDACTED] 2017 that she needed to submit three separate estimates. The Department stated the estimates were never received, and as a result, the Department sent Petitioner a State Emergency Relief Decision Notice informing Petitioner that her request had been denied.

Petitioner testified that she submitted three repair estimates with her application for SER benefits. Petitioner provided the documents at the hearing that she testified she submitted with her application (Exhibit 1). All of the estimates that Petitioner submitted were completed prior to August 10, 2017.

The Department presented Petitioner's electronic case file (ECF). The ECF consists of scanned documents, arranged by category and identified by a client name, recipient ID or case number, established for a particular client group. BAM 300 (October 2016), p. 1. The ECF contains all forms, documents and other evidence to the group's current and past eligibility. BAM 300, p. 1. In the ECF, there are two documents that are listed as

“unspecified” that were submitted on [REDACTED], 2017, the date the application was submitted. The Department testified that they were unsure as to what those documents were, but they were not repair estimates.

Petitioner’s testimony that she submitted repair estimates with her application was credible. The Department was unable to provide testimony as to the nature of the “unspecified” documents. Additionally, the State Emergency Relief Decision Notice states Petitioner’s request for SER benefits was denied, not because she failed to submit repair estimates, but because “the contractor does not have a valid license to provide these services.” That language suggests Petitioner did submit repair estimates. The Department did not provide any evidence that the contractors for Petitioner’s repair estimates did not have the requisite licenses. Therefore, the Department failed to establish that it acted in accordance with policy when it denied Petitioner’s application for SER benefits.

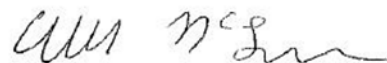
DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner’s application for SER benefits.

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. Reregister and reprocess Petitioner’s application for SER benefits;
2. If Petitioner is eligible for SER benefits, issue supplements Petitioner was eligible to receive but did not as a result of the application denial; and
3. Notify Petitioner of its SER decision in writing.



EM/

Ellen McLemore

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

MDHHS-Wayne-15-Hearings

Petitioner



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