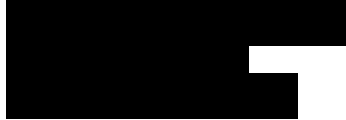




RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: February 23, 2018
MAHS Docket No.: 17-016521
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 February 8, 2018, from Detroit, Michigan. Petitioner was present with [REDACTED]. The Department of Health and Human Services (Department) was represented by Angela Gaddis, Assistance Payments Worker.

ISSUE

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

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 requested SER benefits for non-energy home repairs to her roof.
2. On December 5, 2018, the Department sent Petitioner an Appointment Notice informing Petitioner that she had a telephone interview scheduled related to her SER application on [REDACTED], 2017 (Exhibit C).
3. On December 8, 2017, the Department sent Petitioner a State Emergency Relief Decision Notice informing Petitioner her application for benefits was denied because she failed to verify or to allow the Department to verify information necessary to determine eligibility (Exhibit A).

4. On December 18, 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. Along with the application, Petitioner submitted a quit claim deed conveying the property in question to Petitioner (Exhibit D). The Department retrieved the property tax information for the property in question (Exhibit B). The property tax information indicated the tax payer was "[REDACTED]." [REDACTED] was not listed as an individual in the home on the application. As a result, the Department sent an appointment notice to Petitioner on December 5, 2017, scheduling an interview for [REDACTED], 2017, to review the discrepancy.

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.

When completing an application for SER benefits, the in-person interview requirement is waived but a phone interview is required for active applicants. ERM 103 (October 2017), p. 5. In-person interviews are required for persons who are applying for SER services and are not active for another Department program. ERM 103, p. 5. The SER standard of promptness is 10 calendar days, beginning with the date the SER application is received. ERM 103, p. 5. The Department will pend an application if the SER group is cooperating within their ability to provide verifications. ERM 103, p. 5. The Department will deny the SER application if the group does not cooperate. ERM 103, p. 5.

The Department testified it was unable to reach Petitioner for her [REDACTED], 2017 interview. The Department stated there were questions as to the ownership of the home and who lived in the household. The Department testified that because Petitioner missed the interview, they were unable to verify necessary information and denied the SER application.

Petitioner testified that she received the Appointment Notice for the December 8, 2017 interview on [REDACTED], 2017, around 7 PM. Petitioner stated she immediately called her worker and left a message regarding the missed appointment. However, the Department still denied Petitioner's application.

First, the Department testified that Petitioner had no other active programs with the Department. Therefore, the Department did not properly follow policy when it scheduled a telephone interview with Petitioner, as opposed to an in-person interview. Second, Petitioner's testimony that she did not receive the appointment notice until after the scheduled interview was credible, given the short period of time between the date the notice was mailed and the time of the appointment. Petitioner's testimony that she immediately contacted her worker after realizing she had missed the interview was also credible. Petitioner clearly attempted to comply with the Department's request for information and did not fail to cooperate. Therefore, the Department prematurely 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 benefits she is entitled to receive;
3. Notify Petitioner of its SER decision in writing.

EM/cg



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

Via Email:

MDHHS-Wayne-15-Hearings
MDHHS-Recoupment Hearings
T. Bair
E. Holzhausen
BSC4 Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

