

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

██████████
██████████████████
████████████████████

Reg. No.: 2013-67793
Issue No(s): 5026
Case No.: ██████████
Hearing Date: October 30, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on October 30, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's request for State Emergency Relief (SER) assistance with shelter emergency?

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 July 19, 2013, Claimant applied for SER assistance with rent to prevent eviction.
2. On August 6, 2013, Claimant submitted a second application for SER assistance with rent to prevent eviction.
3. On August 15, 2013, the Department sent Claimant a SER Decision Notice, denying the second application for SER assistance with rent to prevent eviction on the basis that Claimant's shelter was not affordable according to SER requirements.
4. On August 29, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's SER decision.

CONCLUSIONS OF LAW

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 Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049. Department policies are found in the Department of Human Services State Emergency Relief Manual (ERM).

Additionally, SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (March 2013), p.1. An individual will be eligible for SER if a court summons, order, or judgment was issued which will result in the SER group becoming homeless. A demand for possession non-payment of rent or a notice to quit is not sufficient. ERM 303, pp. 3, 5-6.

In this case, Claimant submitted an application for SER with rent to prevent eviction on July 19, 2013. The Department stated that this application was registered, processed and denied on the basis that Claimant did not submit a summons or judgment with the application. At the hearing, Claimant testified that she submitted all of the required documentation with her application. The Department testified that a SER Decision Notice informing Claimant of the denial was sent, however, one was not presented at the hearing and Claimant stated that she did not receive any communication regarding the July 19, 2013. In the absence of any supporting documentation regarding the exact reason for the denial and that a SER Decision Notice was sent, the Department has failed to satisfy its burden in establishing that it acted in accordance with Department policy in processing Claimant's July 19, 2013, SER application with rent to prevent eviction.

On August 6, 2013, Claimant submitted a second application for SER assistance with rent to prevent eviction. The Department testified that because Claimant was not employed at the time and because she had no income, her application was denied on the basis that her shelter was not affordable. The Department presented an SER Decision Notice dated August 15, 2013, denying the application. (Exhibit 1).

Housing affordability is a condition of eligibility for SER benefits for assistance with rent to prevent eviction. ERM 207; ERM 303. In order to determine whether the Claimant's housing is affordable, the Department must multiply the group's total net countable income by seventy-five percent. ERM 207 (March 2013), p. 1. If an SER group does not have sufficient income to meet their total housing obligation, the application will be denied. ERM 207, p. 1.

In determining Claimant's total net countable income, the Department must consider the gross earnings from employment that Claimant will receive or is expected to receive during the 30 day countable period beginning on the date the SER application is received by the local office. ERM 206 (March 2013), p. 1. Net income from employment must be determined by deducting allowable expenses of employment from the gross amount received. ERM 206, p.4. The Department is to verify all non-excluded income, expenses and deductions by sending clients an SER Verification Checklist

(VCL) informing them what verifications are required, where to return the verifications and the due date. ERM 206, p. 5.; ERM 103 (March 2013), p. 5. The client must make a reasonable effort to obtain required verifications. If neither the client nor the Department can obtain the verifications despite a reasonable effort, the Department is to use the best available information. ERM 103, p.5.

At the hearing, the Department stated that an affordability test was done and that no income was budgeted for Claimant however, no affordability test or supporting documentation was provided by the Department to determine if Claimant's income was sufficient to meet her housing obligation. Claimant testified that she was employed through the end of July 2013 and that she received pay stubs through August 2013 and that she informed the Department of this information at the time of her application. (Exhibit A). Claimant submitted pay stubs in support of her testimony. (Exhibit A). Therefore, the Department has failed to satisfy its burden in establishing that it acted in accordance with Department policy when it denied Claimant's August 6, 2013, SER application with rent to prevent eviction on the basis that her shelter was not affordable, as it was not established that the Department took Claimant's employment into consideration when it determined housing affordability.

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 Claimant's July 19, 2013, and August 6, 2013, SER applications for assistance with rent to prevent eviction.

DECISION AND ORDER

Accordingly, the Department's SER decisions are 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. Register Claimant's July 19, 2013, and August 6, 2013, SER applications for assistance with rent to prevent eviction;
2. Reprocess the applications to determine Claimant's eligibility for SER as of the application date; and
3. Issue new SER Decision Notices for each application.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 21, 2013

Date Mailed: November 21, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

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 48909-07322

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]