

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

IN THE MATTER OF:

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Reg. No.: 2014-28781
Issue No(s): 5001
Case No.: ██████████
Hearing Date: April 9, 2014
County: Wayne (82-18)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on April 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████.

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 January 28, 2014, Claimant applied for SER assistance with shelter emergency. See Exhibit 1.
2. On February 5, 2014, the Department sent Claimant a SER Decision Notice. See Exhibit 1.
3. On February 14, 2014, Claimant filed a hearing request, protesting the Department's SER decision. See Exhibit 1.

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).

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2013), p. 1. Moreover, SER assistance can be sought for homelessness or potential homelessness. ERM 303, pp. 6 and 7. For potential homelessness, the client has to provide an eviction order or court summons regarding eviction (a demand for possession non-payment of rent or a notice to quit is not sufficient). ERM 303, p. 6.

The SER applicant must take action within their ability to help themselves. ERM 101 (March 2013), p. 1. For example, obtain potential resources and/or apply for assistance. ERM 101, p. 1. The Department would deny the application if the client would fail to meet this requirement or the criteria listed in ERM 101. ERM 101, p. 1.

In this case, on January 28, 2014, Claimant applied for SER assistance with shelter emergency. See Exhibit 1. Claimant applied for eviction/relocation assistance in the amount of \$500. See Exhibit 1. Along with the application, Claimant provided an Administrative Move-In Fee & Reservation Agreement document dated December 20, 2013. See Exhibit 1. Claimant provided this document because this was the location to which she was attempting to relocate and for which she seeks SER assistance. The document was an agreement in which both parties (Claimant and the relocation residence) agreed that Claimant would pay a \$500 administrative move-in fee. See Exhibit 1. Furthermore, under the payment information section, the document indicated that \$500 was paid and signed by Claimant. See Exhibit 1. The Department testified that it interpreted this portion of the document to mean that Claimant had already paid the \$500 fee and the emergency had been resolved. Therefore, on February 5, 2014, the Department sent Claimant a SER Decision Notice, which denied her SER request due to her emergency already being resolved. See Exhibit 1.

At the hearing, Claimant and her witness testified that Claimant was currently located in an aged care nursing home. Claimant's witness further testified that on or around December 2013, Claimant was no longer eligible for the MI Choice Waiver Program. Claimant's witness testified this resulted in her current rent being unaffordable. Thus, the witness testified that Claimant sought new residence at a senior living community location.

On December 17, 2013, Claimant's witness testified that Claimant found the new potential residence and signed the document, which indicated a \$500 administrative move-in fee. However, Claimant and her witness testified that the move-in fee has not yet been paid. Along with the hearing request, Claimant even provided a letter from the senior living community location, which indicated the \$500 fee has not been paid. See

Exhibit 1. Thus, the issue present in the hearing was whether the Department properly interpreted the Administrative Move-In Fee & Reservation Agreement document to mean that Claimant already paid the move-in fee and the emergency has been resolved. See Exhibit 1. It should be noted that Claimant testified she is still located in the aged care nursing home and received her eviction notice as of April 8, 2014. Claimant testified she can remain at the nursing home 30 days from the date of the eviction notice. The Department testified it discovered the fee had not been paid until after the denial notice.

Before determining eligibility, the Department is to give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130 (January 2014), p. 7. The Department can use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103 (October 2013), p. 6.

Based on the foregoing information and evidence, the Department properly denied Claimant's SER assistance application for shelter emergency in accordance with Department policy.

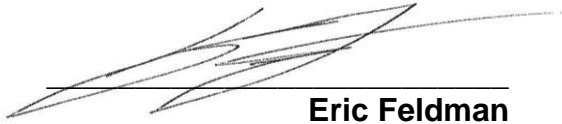
First, it is reasonable to conclude that, at the time of application, the Department properly interpreted the document (Administrative Move-In Fee & Reservation Agreement) to mean Claimant had already paid the \$500 move-in fee. A review of the document indicated that the \$500 administrative fee was paid and the document was signed by Claimant. See Exhibit 1. As such, the evidence presented that Claimant had paid her move-in fee and the emergency had been resolved. ERM 101, p. 1. Because the evidence indicated that, at the time of application Claimant's shelter emergency had been resolved, it was proper for the Department to deny the SER application effective February 5, 2014, in accordance with Department policy. ERM 101, p. 1.

Second, even if there was a discrepancy as to whether the administrative fee had been paid, it was harmless error by the Department. Claimant testified that her eviction notice was just recently issued on April 8, 2014, and that she currently resides at the residence. For potential homelessness, the client has to provide an eviction order or court summons regarding eviction (a demand for possession non-payment of rent or a notice to quit is not sufficient). ERM 303, p. 6. At the time of application, Claimant did not have such legal documentation and, thus, would also not be eligible for the SER assistance (at the time of application). See ERM 303, p. 6. It should be noted that Claimant can reapply for SER assistance with shelter emergency. See ERM 103, pp. 1-8.

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 acted in accordance with Department policy when it properly denied Claimant's SER assistance application for shelter emergency (SER Decision Notice dated February 5, 2014).

Accordingly, the Department's SER decision is AFFIRMED REVERSED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 14, 2014

Date Mailed: April 14, 2014

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

EJF/pf

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]