

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

IN THE MATTER OF:

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

Reg. No.: 2014-32911
Issue No(s): 5001
Case No.: ██████████
Hearing Date: April 21, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant'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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on April 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's husband, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's State Emergency Relief (SER) assistance with rent to prevent eviction?

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 March 4, 2014, Claimant applied for SER assistance with rent to prevent eviction. See Exhibit 1.
2. Claimant provided an Amended Judgment Landlord-Tenant document dated February 4, 2014, which indicated Claimant's husband must pay the rental balance by March 31, 2014. See Exhibit 1.
3. On March 10, 2014, the Department sent Claimant an Application Notice, which denied the SER assistance request as the emergency has already been resolved. See Exhibit 1.

4. On March 19, 2014, Claimant filed a hearing request, protesting the SER denial. See Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

As a preliminary matter, it was discovered during the hearing that Claimant subsequently applied for SER assistance on March 26, 2014 and it was denied on March 27, 2014. The subsequent SER denial occurred after Claimant's hearing request, thus, it will not be addressed in this hearing for lack of jurisdiction. See BAM 600 (March 2014), pp. 4-6. Claimant was notified that she could request another hearing to dispute the subsequent SER denial. See BAM 600, pp. 4-6.

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. A covered service can be the combination of a first month's rent, security deposit, and moving expenses. ERM 303, p. 1.

Moreover, SER assistance can be sought for homelessness or potential homelessness. ERM 303, pp. 6 and 7. Documentation needed for legal notice includes a court summons, order, or judgment was issued which will result in the SER group becoming homeless. ERM 303, p. 3. Specifically, for homelessness, verification includes an eviction, judgment, or court order from last residence. ERM 303, p. 6. For potential homelessness, verification includes 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.

In this case, on March 4, 2014, Claimant applied for SER assistance with rent to prevent eviction. See Exhibit 1. Specifically, Claimant indicated that she needed \$2,900 for rent to prevent eviction. See Exhibit 1. Additionally, Claimant provided an Amended Judgment Landlord-Tenant document dated February 4, 2014, which indicated Claimant owed \$6,481 in rent to retain possession. See Exhibit 1. Furthermore, the judgment indicated a payment plan and the Claimant's husband must pay the rental balance by March 31, 2014 or an order evicting will be issued. See Exhibit 1. The Department testified that it interpreted the judgment to mean that Claimant's emergency had been resolved due to the payment arrangement. As such, on March 10, 2014, the Department sent Claimant an Application Notice, which denied the SER assistance request as the emergency has already been resolved. See Exhibit 1.

At the hearing, the Department testified that before the denial, Claimant notified the Department that she paid a total balance of \$4,400, but still owed the remaining rental amount. Claimant testified that she actually paid \$5,400 towards the total amount and mistakenly told the Department the incorrect amount. Thus, it appears that Claimant owes less than \$2,900. Nevertheless, Claimant testified that she applied on March 4, 2014 because they were unable to pay the remaining balance (due to financial reasons and/or medical). Claimant testified that they are still located in the residence; however, they have until the end of April 2014 to remain at the residence.

Based on the foregoing information and evidence, the Department improperly denied Claimant's SER assistance with rent to prevent eviction.

First, documentation needed for legal notice includes a court summons, order, or judgment was issued which will result in the SER group becoming homeless. ERM 303, p. 3. Claimant has provided such documentation with the judgment dated February 4, 2014. Therefore, Claimant provided the necessary verification to show a judgment was issued which will result in the SER group becoming homeless. See ERM 303, pp. 3 and 6.

Second, the Department improperly denied the application due to interpreting the judgment to mean that Claimant's emergency had been resolved for making payment arrangements. Instead, the emergency has not been resolved and Claimant is facing potential homelessness. On March 4, 2014, Claimant applied because she was unable to fulfill the payment obligation and needed assistance in the amount of \$2,900 to avoid eviction. See Exhibit 1. The Department even testified that it knew Claimant only made a partial payment and could not afford the remaining balance before the denial. Even though there was a payment arrangement, Claimant applied for SER assistance due to her inability to fulfill the payment arrangement and needed SER assistance. As such, Claimant's emergency was not resolved at the time of application and the Department improperly denied it for that reason. Therefore, the Department will reprocess the SER application dated March 4, 2014. See ERM 303, pp. 3 and 6.


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 did not act in accordance with Department policy when it improperly denied Claimant's SER assistance with rent to prevent eviction effective March 10, 2014.

Accordingly, the Department's SER 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. Initiate re-registration and reprocessing of Claimant's SER application with rent to prevent eviction dated March 4, 2014, in accordance with Department policy and as the circumstances existed at the time of application;
2. Begin issuing supplements to Claimant for any SER benefits she was eligible to receive but did not from date of application; and
3. Begin notifying Claimant in writing of its SER decision in accordance with Department policy.



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

Date Signed: May 1, 2014

Date Mailed: May 1, 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:

2014-32911/EJF

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/cl

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