

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

IN THE MATTER OF:

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Reg. No.: 14-018324
Issue No.: 5001
Case No.: ██████████
Hearing Date: April 06, 2015
County: Wayne-District 57 (Conner)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 6, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████ ██████, Family Independence Manager and ██████ ██████, District Manager.

ISSUE

Did the Department properly deny Claimant's applications for 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 October 9, 2014, Claimant submitted an application for SER assistance with rent to prevent eviction.
2. On October 17, 2014, the Department sent Claimant an Application Notice informing her that her request was denied on the basis that she failed to provide the Department with information needed to determine eligibility. (Exhibit B)
3. On or around October 23, 2014, Claimant requested a hearing disputing the Department's actions with respect to her October 9, 2014, SER application. (Exhibit A)

4. On November 1, 2014, Claimant submitted a second application for SER assistance with rent to prevent eviction.
5. On or around November 3, 2014, Claimant signed a Hearing Request Withdrawal (DHS 18-A), concerning her October 23, 2014, hearing request. (Exhibit A)
6. The above referenced Hearing Request Withdrawal was not approved by MAHS or an Administrative Law Judge and the Department failed to forward the Claimant's October 23, 2014, hearing request to MAHS to schedule a hearing concerning Claimant's request.
7. On November 6, 2014, the Department sent Claimant a SER Decision Notice informing her that the SER application submitted on November 1, 2014, was denied on the basis that Claimant's group did not meet program requirements. (Exhibit 1)
8. On November 24, 2014, Claimant submitted a third application for SER assistance with rent to prevent eviction.
9. On December 3, 2014, the Department sent Claimant an application Notice informing her that the application submitted on November 24, 2014, was denied on the basis that she did not have a court ordered eviction notice. (Exhibit C)
10. On December 11, 2014, Claimant requested a hearing disputing the Department's actions with respect to the three SER applications she submitted.

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.

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. 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 three applications for SER assistance with rent to prevent eviction, all of which were denied by the Department. Each application will be addressed separately.

October 9, 2014, SER Application

The Department testified that Claimant's SER application was denied on the basis that she failed to provide a legible copy of the court ordered eviction notice. A review of the October 17, 2014, Application Notice indicates that the Department determined Claimant was ineligible for SER because she failed to provide the Department with information needed to determine eligibility. (Exhibit B). The Department testified that Claimant requested a hearing disputing the denial and that on November 3, 2014, a pre-hearing conference was conducted during which Claimant completed a hearing request withdrawal indicating that she understood the Department's actions. Claimant disputed the Department's testimony and stated that she withdrew her hearing request because she was verbally informed by her case worker that the Department would make a \$145 payment towards her rental obligation.

The Department presented a DHS 18-A for review at the hearing that was not signed or approved by an Administrative Law Judge or MAHS. (Exhibit A). In order for the withdrawal prior to the scheduling of a hearing to be valid without the approval of MAHS, the Department should have submitted a DHS 18-M, which it failed to do. (See BAM 600, pp. 27-29). Thus, the withdrawal submitted by the Department is invalid and the denial of the October 9, 2014, application will be discussed below.

At the hearing, Claimant stated that she went to court concerning her eviction on October 9, 2014, and that after her court date she came to the local office to submit an application for SER assistance with rent, as she had just received a judgment of eviction. Claimant provided a copy of the eviction judgment for review at the hearing. (Exhibit 2). Claimant testified that she scanned the documents into the system using the Department's scanner. The District Manager present for the hearing stated that there may have been some issues with the scanner and that a scanning equipment failure was possible. The Department could not recall if anyone informed Claimant that the documents she submitted were not legible or if the Department asked Claimant to verify the information that was missing in accordance with ERM 103. ERM 103 (October 2013), pp.6-7.

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 after further review of the evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's SER application based on a failure to provide information needed to determine eligibility.

November 1, 2014, SER Application

Initially, the Department testified that it did not have a record of Claimant's second application for SER assistance that was submitted on November 1, 2014. At the hearing, Claimant provided a confirmation number for her application, as well as a November 6, 2014, SER Decision Notice that she received which informed her that the application was denied on the basis that she did not meet program requirements. (Exhibit 1). Later, the Department stated that Claimant's application was denied because her landlord did not have a registered provider ID number with the State of Michigan. The Department stated that based on the November 6, 2014, case comments from Claimant's case worker, Claimant failed to submit the SER with a valid provider ID number and that the application was denied until the provider ID could be issued. (Exhibit D). While Department policy does provide that SER service providers must be enrolled before payment can be issued, Department policy does not indicate that the failure of a landlord to have a provider ID for payment purposes shall result in Claimant not meeting program requirements. Thus, the Department's denial of Claimant's November 1, 2014, SER application on the basis that she failed to meet program requirements was improper.

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 after further review of the evidence, the Department did not act in accordance with Department policy when it denied Claimant's SER application based on a failure to meet program requirements.

November 24, 2014, SER Application

The Department testified that Claimant's application was denied on the basis that she did not have a court ordered eviction notice. On December 3, 2014, the Department sent Claimant an Application Notice informing her of the denial (Exhibit C). At the hearing, Claimant presented sufficient evidence to establish that she did have a court ordered eviction notice and that a Judgment was issued against her on October 9, 2014. (Exhibit 2). Claimant established that she provided the Department with the required information on more than one occasion and the Department did not properly process the application.

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 Claimant's SER application on the basis that she did not have a court ordered eviction notice.

DECISION AND ORDER

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. Register Claimant's October 9, 2014, November 1, 2014, and November 24, 2014, SER applications for assistance with rent to prevent eviction;
2. Reprocess the applications to determine Claimant's eligibility for SER as of the application dates; and
3. Issue new SER Decision Notices for each application.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/5/2015**

Date Mailed: **5/5/2015**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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