

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-24350
Issue No(s): 5030
Case No.: [REDACTED]
Hearing Date: April 1, 2014,
County: Wayne-17

ADMINISTRATIVE LAW JUDGE: MICHAEL S. NEWELL

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 1, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] FIM and [REDACTED] Eligibility Specialist

ISSUE

Did the Department properly deny SER application?

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 or around December 9, 2013, Claimant appeared before the 36th Judicial District Court for eviction proceedings.
2. The owners of the property which Claimant rented as her residence had summoned Claimant to court for eviction proceedings.
3. The plaintiff in the eviction proceeding had requested \$ [REDACTED] from Claimant.
4. However, even if Claimant paid it, the owner wanted her evicted because Claimant did not have a lease with the owner and had a lease with someone else, whom the owners alleged did not own the property.
5. The parties agreed that if Claimant moved out by December 20, 2013, then Claimant would owe nothing.
6. The judge approved the order.

7. On or around January 10, 2014, Claimant applied for relocation expenses.
8. On January 17, 2014, the Department denied the application because Claimant agreed to a consent judgment.

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.

Additionally, SER 303 provides that applicants moving voluntarily must be denied. Although Claimant agreed to a consent judgment during eviction proceedings, Claimant did not move voluntarily. Appearing before a court for eviction is not how people move voluntarily, nor can it be said that a consent judgment to move without monetary damages, in lieu of suit for over \$ [REDACTED] is a choice to move, particularly when there is nothing in the record to suggest that Claimant had any legal right to stay on the property beyond December 20, 2013, whether she agreed to a consent judgment or not. There is simply no evidence in the record to support a conclusion that Claimant had a meaningful choice in the matter.

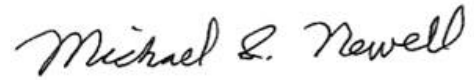
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the application.

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. Reinstate the application and redetermine eligibility.



MICHAEL S. NEWELL
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 23, 2014

Date Mailed: April 23, 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.

2014-24350/MSN

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

MSN/las

cc:

