

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

IN THE MATTER OF:

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

Reg. No.: 2014-34672
Issue No(s): 5001
Case No.: ██████████
Hearing Date: May 27, 2014
County: Wayne (76)

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 three-way telephone hearing was held on May 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Worker.

ISSUE

Did the Department properly deny Claimant's State Emergency Relief (SER) assistance for 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 17, 2014, Claimant applied for SER assistance for rent to prevent eviction in the amount of \$4,204.51. See Exhibit 1, p. 10.
2. On March 21, 2014, the Department sent Claimant an Application Notice, which denied Claimant's SER application based on no new landlord information received and applicant failed to meet interview requirements. See Exhibit 1, p. 2.
3. On March 26, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 2-3.

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 Mich Admin Code, R 400.7001 through R 400.7049.

As a preliminary matter, Claimant was originally scheduled to go to her local DHS office to participate in the hearing. Instead, the hearing proceeded as a three-way telephone hearing and Claimant did not dispute to conduct the hearing as such.

State Emergency Relief (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. Accept the decision of the SER group regarding use of the relocation funds authorized. ERM 303, p. 1. The issuance amount must resolve the group's shelter emergency. ERM 303, p. 1. Authorize can include first month's rent, security deposit, moving expenses, etc...ERM 303, p. 1.

The Department will determine whether the SER group's rental housing is affordable. ERM 303, p. 4. The Department approves SER for relocation services only if the group's rental obligation meets the criteria for housing affordability specified in ERM 207. ERM 303, p. 4 and see ERM 207 (March 2013), pp. 1-3.

Also, the Department verifies the group shelter payments for the past six months and enter the obligation amount and verification source on the SER Required Payments screen. ERM 303, p. 4. If required payments have not been made, the Department will determine whether the SER group had good cause for non-payment of their shelter obligation during the last six months, regardless of the reason they are in need. ERM 303, p. 4.

In this case, on March 17, 2014, Claimant applied for SER assistance for rent to prevent eviction in the amount of \$4,204.51. See Exhibit 1, p. 10. It should be noted that a Judgment Landlord-Tenant Order was presented to indicate that Claimant's total amount owed was \$4,204.51. See Exhibit 1, p. 10. On March 21, 2014, the Department sent Claimant an Application Notice, which denied Claimant's SER application based on no new landlord information received and applicant failed to meet interview requirements. See Exhibit 1, p. 2. On March 26, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 2-3.

At the hearing, the Department testified that Claimant was denied SER services because her housing was not affordable. See Exhibit 1, p. 1. However, a review of the Application Notice did not indicate such a denial reason. Claimant's denial reason was based on no new landlord information received and applicant failed to meet interview requirements. See Exhibit 1, p. 2. It was unclear why housing affordability was not indicated in the Application Notice as the denial reason. Moreover, the Department did not present any budgets to show how her housing was not affordable. Ultimately, the Department testified that Claimant's housing was not affordable and it exceeded the maximum amount for relocation services. A SER group size of two (Claimant and daughter) maximum payment for relocation services per issuance is \$520. See ERM 303, p. 7.

Claimant acknowledged that she was seeking rent to prevent eviction in order to stay in her current rental housing location. Claimant testified that she is still located in the rental house that included a SER group size of two (Claimant and daughter). Claimant, though, testified that she only owed approximately \$3,400 for her rent because she paid the landlord \$1,200 towards the judgment order. It should be noted that Claimant provided a statement history of her rent dated March 11, 2014, which indicated a \$1,200 payment on February 23, 2014. See Exhibit 1, p. 9. Nevertheless, Claimant testified that she seeks assistance for her rent to prevent eviction.

Claimant also indicated that she is employed and earns \$7.50 per hour; works 30-35 hours per week; and is paid biweekly. Claimant also indicated that she received cash assistance for March 2014 but not for the subsequent months, because her benefits closed. It appeared that Claimant also disputed her cash closure (e.g., Family Independence Program (FIP) benefits). However, a review of Claimant's hearing request did not indicate any dispute with her cash closure. See Exhibit 1, pp. 2-3. Claimant was notified that she could request another hearing to dispute her alleged cash closure. See BAM 600 (March 2014), pp. 4-6.

Based on the foregoing information and 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 for rent to prevent eviction on March 21, 2014.

First, the Department failed to meet its burden of proof when it did not notify Claimant of the proper SER denial reasons. As stated above, Claimant's denial reason was based on no new landlord information received and applicant failed to meet interview requirements. See Exhibit 1, p. 2. However, it was unclear why housing affordability was not indicated in the Application Notice as the denial reason. The Department informs all SER applicants in writing of the decision made on their application. ERM 103 (October 2013), p. 3. The Department mails or gives the DHS-1419, Decision Notice, to the applicant. ERM 103, p. 3. Moreover, if the group is ineligible or refuses to cooperate in the application process, the Department must certify the denial within the standard of promptness and also send a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115 (March 2014), p.

22. If the Department alleges that the SER denial is based on Claimant's housing being unaffordable, then, the Department must provide such a denial reason. See ERM 103, p. 3; BAM 115, p. 2; and see also BAM 105 (January 2014), pp. 16-17. Nevertheless, the Department failed to meet its burden of proof to show how Claimant's application was denied based on no new landlord information received and applicant failed to meet interview requirements. See Exhibit 1, p. 2.

Second, the Department failed to meet its burden of proof when it did not present an SER budget to show how Claimant's housing is not affordable. The local office and client or AHR will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600, p. 36. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 39. As stated previously, the Department failed to present any SER budgets to show how Claimant's housing is not affordable. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's SER application for rent to prevent eviction on March 21, 2014. BAM 600, pp. 36-39.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's SER application for rent to prevent eviction on March 21, 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 shelter emergency dated March 17, 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: June 2, 2014

Date Mailed: June 2, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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 48909-07322

EJF/cl

cc:

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