

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-9114
Issue No(s): 5001
Case No.: ██████████
Hearing Date: January 15, 2014
County: Oakland (04)

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. After due notice, a telephone hearing was held on January 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's applications for State Emergency Relief (SER)?

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 August 12, 2013, Claimant submitted an application for SER assistance with relocation services for a security deposit and the first month of rent in the amount of ██████████ and ██████████, respectively. (Exhibit 1)
2. On August 19, 2013, the Department sent Claimant a SER Decision Notice informing her that she was approved for SER assistance but that she would be required to make a payment of ██████████ prior to the Department making their approved payment of ██████████. (Exhibit 2)
3. On October 3, 2013, Claimant submitted a second application for SER assistance with rent to prevent eviction. (Exhibit 3)

4. On October 9, 2013, the Department sent Claimant a SER Decision Notice informing her that her application was denied on the basis that her shelter was not affordable according to SER requirements. (Exhibit 4)
5. On October 22, 2013, Claimant submitted a hearing request disputing the Department's actions.

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, Claimant requested a hearing to dispute the Department's actions with respect to two applications for SER assistance. Each application will be addressed separately. 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

August 12, 2013 SER Application

On August 12, 2013, Claimant submitted an application for SER assistance with relocation services for a security deposit and the first month of rent in the amount of [REDACTED] and [REDACTED], respectively. (Exhibit 1). The Department testified that it had a telephone conversation with Claimant prior to sending her the SER Decision Notice and informed her verbally of the decision and the requirement that she provide proof of her payment made. On August 19, 2013, the Department sent Claimant a SER Decision Notice informing her that she was approved for SER assistance but that she would be required to make a payment of [REDACTED] prior to the Department making their approved payment of [REDACTED]. (Exhibit 2). The Department testified that on August 15, 2013, Claimant submitted verification that she made a [REDACTED] payment to her landlord towards her total contribution amount. (Exhibit 6). The Department stated that because Claimant did not provide verification that she contributed the remaining [REDACTED] Department did not make their approved payment of [REDACTED]

At the hearing, Claimant testified that she made a payment of [REDACTED] to her landlord on August 19, 2013 and that she submitted proof of that payment to the Department on that same day. The Department stated that it did not receive verification of the [REDACTED] 5 payment until October 3, 2013. The Department stated that because the verification of

the [REDACTED] payment was dated August 19, 2013, the Department corrected their action and made a payment to Claimant's landlord in the approved amount on October 4, 2013.(Exhibit 6). Claimant confirmed that the Department made the full amount of the approved payment to her landlord on October 4, 2013.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (July 2013), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

Therefore, because the Department corrected the actions that Claimant requested a hearing on, there is no aggrieved party in this case and there remains no issue left to be resolved. As such, Claimant's hearing request with respect to her August 12, 2013, SER application is DISMISSED.

October 3, 2013 SER Application

On October 3, 2013, Claimant submitted an application for SER assistance with rent to prevent eviction. (Exhibit 3). On October 9, 2013, the Department sent Claimant a SER Decision Notice informing her that her application had been denied on the basis that her shelter was not affordable according to the SER requirements. (Exhibit 4).

Housing affordability is a condition of eligibility for SER benefits for assistance with rent to prevent eviction. ERM 207; ERM 303. In order to determine whether the Claimant's housing is affordable, the Department must multiply the group's total net countable income by seventy-five percent. ERM 207 (March 2013), p. 1. If an SER group does not have sufficient income to meet their total housing obligation, the application will be denied. ERM 207, p. 1.

In determining Claimant's total net countable income, the Department must consider the gross earnings from employment that Claimant will receive or is expected to receive during the 30 day countable period beginning on the date the SER application is received by the local office. ERM 206 (March 2013), p. 1. Net income from employment must be determined by deducting allowable expenses of employment from the gross amount received. ERM 206, p.4. The Department is to verify all non-excluded income, expenses and deductions by sending clients an SER Verification Checklist (VCL) informing them what verifications are required, where to return the verifications and the due date. ERM 206, p. 5.; ERM 103 (March 2013), p. 5. The client must make a reasonable effort to obtain required verifications. If neither the client nor the Department can obtain the verifications despite a reasonable effort, the Department is to use the best available information. ERM 103, p.5.

At the hearing, the Department testified that prior to submitting her application, Claimant had been employed at Carter's and Meijer. The Department stated that because Claimant's employment at Meijer had ended in September 2013, her income from Carter's was insufficient to meet the affordability test for SER. Claimant disputed the Department's testimony and stated that she continued to be employed at Meijer through the month of November 2013 and that due to an injury, she was off of work for one week.

Although the Department testified that it relied on income earned from Carter's in the amount of [REDACTED] and presented an Employment Budget, the Department failed to present an affordability test and did not present any testimony regarding how Claimant's total net countable income was determined. (Exhibit 5).

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 October 3, 2013, SER application.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to the August 12, 2013 SER application is DISMISSED and the Department's decision with respect to the October 3, 2013, SER application 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 3, 2013, SER application for assistance with rent to prevent eviction;
2. Reprocess the application to determine Claimant's eligibility for SER as of the application date; and

3. Issue a new SER Decision Notice.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 6, 2014

Date Mailed: February 7, 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

ZB/tm

cc: [Redacted]
[Redacted]
[Redacted]
[Redacted]
[Redacted]