

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-019533
Issue No.: 2001; 6001
Case No.: ██████████
Hearing Date: March 16, 2015
County: Wayne-District 15

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's State Emergency Relief (SER) application for assistance with rent?

Did the Department properly provide Medical Assistance (MA) coverage to Claimant's son?

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 20, 2014, Claimant applied for SER assistance with rent to prevent eviction.
2. On December 4, 2014, a hearing on the SER application was held before Administrative Law Judge Susan Burke.
3. In a Hearing Decision issued on December 9, 2014, ALJ Burke ordered the Department to process the application.

4. On December 17, 2014, the Department sent Claimant a SER Decision Notice notifying her that the SER application was denied because she did not have a court-ordered eviction notice.
5. On December 29, 2014, Claimant filed a request for hearing 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 Mich Admin Code, R 400.7001 through R 400.7049.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

As a preliminary matter, it is noted that Claimant had requested a rehearing/reconsideration following the December 4, 2014 hearing in connection with ALJ Burke's Hearing Decision in her favor. In a January 14, 2015 Order, Supervising Administrative Law Judge Jonathan Owens denied Claimant's request. In its hearing summary, the Department posed Claimant's hearing request to concern the January 14, 2015 Order Denying Request for Rehearing/Reconsideration. However, Claimant filed her hearing request on December 29, 2014, before Supervising ALJ Owens issued his January 14, 2015 order. The evidence, including the Department's testimony, showed that, after ALJ Burke issued her December 9, 2014 Hearing Decision reversing the Department, the Department processed Claimant's August 20, 2014 SER application and issued a December 17, 2014 SER Decision Notice denying the application. A more careful review of Claimant's hearing request filed December 29, 2014 shows that Claimant requested a hearing concerning the December 17, 2014 SER Decision Notice denying her SER application. This SER issue was addressed during the hearing.

A further review of Claimant's handwritten letter submitted to the Department on December 26, 2014, shows that Claimant also requested a hearing concerning her

son's MA status after she received a notice indicating that her son was covered under another case. The Department failed to address this issue. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy with respect to Claimant's son's MA case.

With respect to the SER issue, the December 17, 2014 SER Decision Notice shows that the Department denied Claimant's application because she did not have a court-ordered eviction. SER assistance is available to assist individuals and families to resolve or prevent homelessness by providing funds for rent, security deposits, and moving expenses. ERM 303 (October 2013), p. 1. In order to be eligible for relocation services, the client must verify that she is homeless. ERM 303, p. 1. To verify homelessness, the client must provide one of the following:

- Eviction, judgment, or court order from last residence.
Note: A demand for possession non-payment of rent or notice to quit is not acceptable.
- Group's statement that they are living with others to escape domestic violence.
- Group's statement that they are sleeping in a car, or on the street and there is no housing they can return to.
- Fire department report, newspaper article, etc. verifying a fire or natural disaster.
- Statement from the releasing facility for persons exiting jail, prison, a juvenile facility, a hospital, a medical setting, foster care, a substance abuse facility or a mental health treatment setting indicating there is no available housing and the person has no residence to return to.
- Signed and dated statement on official letterhead of the agency or service provider, which identifies the persons and the homeless assistance program they are eligible for.

ERM 303, p. 6.

The client can also establish potential homelessness by providing any of the following documentation:

- An eviction order or court summons regarding eviction. (A demand for possession non-payment of rent or a notice to quit is not sufficient.)
- Legal notice from local public agency ordering the group to vacate condemned housing.

Note: A non-compliance notice with building code violations or condemnation notice granting a repair period does not qualify as a notice to vacate.

- Written statement from DHS services worker or DHS specialist, approved by a manager, when:
 - The current rental unit is unsafe structurally or is otherwise a threat to the health and safety of the family.
 - The family needs adequate, affordable housing to avoid a foster care placement or so children in foster care can return home.
- Written notification from the energy multi-disciplinary team that the group lives in high energy housing that cannot be rehabilitated.

ERM 303, pp. 6-7.

In this case, Claimant did not provide an eviction notice prior to the December 17, 2014 SER Decision Notice denying her application. There was no evidence presented that any of the other verifications to establish homeless (or potential homeless) applied to Claimant's case. Because Claimant was not able to provide a court-ordered eviction, the Department acted in accordance with Department policy when it concluded that Claimant was ineligible for rent assistance and denied her SER application.

At the hearing, Claimant testified that she had an eviction hearing on January 15, 2015 and at that time received an eviction notice which she promptly provided to the Department. She acknowledged that she did not have an eviction notice prior to January 15, 2015. Because Claimant did not have an eviction notice prior to December 17, 2014, when the Department denied her SER application, the Department properly denied the application.

At the hearing, Claimant testified that she had received another SER denial on January 28, 2015. Because Claimant received this notice after she filed her December 29, 2014 request for hearing, the undersigned did not have authority to review that Department action. Claimant was advised to request a hearing if she disputed the Department's decision.

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 acted in accordance with Department policy when it denied Claimant's August 20, 2014 SER application in the December 17, 2014 SER Decision Notice but failed to satisfy its burden of showing that it acted in accordance with Department policy when with respect to Claimant's son's MA case.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the denial of Claimant's August 20, 2014 SER application and REVERSED IN PART with respect to providing MA coverage to Claimant's son.

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 Claimant's son's MA case for December 1, 2014 ongoing;
2. Provide Claimant's son with MA benefits he is eligible to receive but did not from December 1, 2014 ongoing; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/24/2015**

Date Mailed: **3/24/2015**

ACE / 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 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 48909-8139

CC:

[REDACTED]