

**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.: 15-005346
Issue No.: 5001
Case No.: ██████████
Hearing Date: May 13, 2015
County: Wayne-District 18

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 May 13, 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 Specialist Case Manager and ██████████, Family Independence Manager.

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. In October 2014, Claimant moved into the apartment at issue.
2. On March 16, 2015, Claimant submitted an application for SER assistance with relocation services, specifically a security deposit. (Exhibit D)
3. On March 17, 2015, the Department sent Claimant a SER Decision Notice informing her that the application was denied on the basis that her shelter was not affordable according to SER requirements. (Exhibit B)
4. On March 30, 2015, Claimant requested a hearing disputing the Department's actions.

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.

In this case, Claimant moved into her current residence in October 2014. Claimant testified that her landlord allowed her to move into the apartment based on a promise from the Department that the Department would pay her \$690 security deposit. Claimant did not present anything in writing verifying that a promise was made to her by the Department to pay her security deposit. Claimant testified that although her rent was paid in full each month through section 8 funding, because she was unable to pay her landlord the initial security deposit, he commenced eviction proceedings against her. (Exhibit 2). Claimant presented a March 12, 2015, [REDACTED] judgment showing rent to retain possession of \$690 and costs in the amount of \$150, which total \$840 due and owing to the landlord (Exhibit 1). It was established that the eviction proceedings were based on Claimant's failure to pay her landlord the \$690 security deposit, and not due a nonpayment of rent, as the documentation presented by Claimant shows that her monthly rental obligation of \$590 was paid and current. (Exhibit 1, p. 2).

On March 16, 2015, Claimant submitted an application for SER assistance with relocation services, specifically a security deposit in the amount of \$840. (Exhibit D). Claimant included a copy of the judgment with her application. (Exhibit 1). On March 17, 2015, the Department issued a SER Decision Notice denying Claimant's application on the basis that her shelter did not meet the affordability requirements for SER assistance. (Exhibit B). The Department testified that Claimant's application was also denied because her request for assistance with a security deposit was made after Claimant had already moved into the home and had been living there for several months; thus, she had no need for SER assistance with relocation. Claimant clearly had a need for SER assistance; however, as she presented a judgment of eviction from the district court and a failure to pay the amount owed would result in her becoming homeless. ERM 303 (October 2013), pp.1-3.

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303, 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. Provided the shelter is affordable, the Department will authorize amounts needed to keep or obtain permanent shelter, up to the issuance maximum amounts. ERM 303, p. 5. The Department will determine if the SER group's rental housing is affordable pursuant to ERM 207. ERM 303, p. 4. Housing affordability is a condition of eligibility for SER benefits for assistance with relocation services. ERM 207 (March 2013), p.1;ERM 303 (October 2013). 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, p. 1. If a SER group does not have sufficient income to meet their total housing obligation, the application will be denied. ERM 207, p. 1.

In this case, the Department presented a SER Affordability Test in support of its testimony that Claimant's shelter was not affordable for SER purposes. (Exhibit C). A review of the budget shows that the Department failed to include any amounts and that \$0.00 is listed on the budget for each category. The Department testified that because Claimant does not have any income, her shelter is not affordable. There was evidence presented, however, that Claimant receives monthly income from child support which the Department failed to consider on the budget.

The SER Affordability Test budget also did not have any amount included for rent or for total expenses, which the Department was required to verify pursuant to policy. Claimant testified that her rent is paid in full through section 8 funding and questioned how her shelter could not meet affordability requirements. The Department confirmed Claimant's testimony and the Housing Assistance Payments (HAP) Register provided by Claimant also shows that Claimant's rent is paid in full monthly by a funding source. (Exhibit 1, p. 2). It remained unclear whether the funding received by Claimant to pay the full amount of her monthly rent qualified as an exception to the affordability requirements found in ERM 207, p. 1.

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 did not act in accordance with Department policy when it denied Claimant's application for SER assistance.

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 March 16, 2015, SER application;
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 Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/12/2015**

Date Mailed: **6/12/2015**

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]
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