

**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.: 15-011445
Issue No.: 5001
Case No.: ██████████
Hearing Date: September 03, 2015
County: WAYNE-DISTRICT 18

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 September 3, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Claimant's September, 2014 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. Claimant applied for SER on March 16, 2015.
2. This application was denied on March 17, 2015 for unaffordability and because Claimant had no need, as Claimant had been living in the space since October, 2014.
3. On June 12, 2015, Administrative Law Judge Zainab Baydoun issued a Decision and Order reversing the Department on both grounds and ordering the Department to reprocess the application.
4. On June 19, 2015, the Department issued a new notice, which denied Claimant's SER application for the exact reasons already decided upon by ALJ Baydoun.
5. On June 25, 2015, Claimant requested a hearing.

6. At the hearing, the Department testified that it had incorrectly denied Claimant on unaffordability grounds, but held that Claimant's application was denied upon need grounds, as Claimant had already been living in the space since October, 2014.

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.

The undersigned takes judicial notice of the June 12, 2015 decision and order of ALJ Zainab Baydoun.

In this case, the Department argued that it had incorrectly denied Claimant's SER application on affordability grounds, but had denied Claimant based on need grounds.

At the hearing, the Department testified that it had incorrectly denied Claimant on unaffordability grounds, but held that Claimant's application was denied upon need grounds, as Claimant had already been living in the space since October, 2014.

On June 12, 2015, ALJ Zainab Baydoun issued a Decision and Order that addressed these grounds; as such, the matter has already been decided, and the undersigned has no jurisdiction to overrule ALJ Baydoun's decision:

"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." Decision and order dated June 12, 2015.

ALJ Baydoun has already ruled that Claimant meets need requirements, and the undersigned has no grounds to reverse that finding.

The Department must process Claimant's application forthwith, as Claimant has already been ruled to have need.

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 failed to process and abide by the June 12, 2015 decision of ALJ Zainab Baydoun.

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. Reprocess Claimant's March 16, 2015 SER application, with the understanding that it has already been ruled that Claimant has a need for SER assistance.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/9/2015**

Date Mailed: **9/9/2015**

RJC/tm

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]
[REDACTED]
[REDACTED]
[REDACTED]