

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

**IN THE MATTER OF:**

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

MAHS Reg. No.: 15-016512  
Issue No.: 3000 5002  
Agency Case No.: ██████████  
Hearing Date: October 29, 2015  
County: Wayne (31)

**ADMINISTRATIVE LAW JUDGE: Christian Gardocki**

**HEARING DECISION**

Following Petitioner'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 October 29, 2015, from Detroit, Michigan. Petitioner appeared and was unrepresented. MDHHS was represented by ██████████, specialist.

**ISSUE**

The issue is whether MDHHS properly denied Petitioner's application 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 26, 2015, Petitioner applied for SER seeking assistance for a rent arrearage.
2. Petitioner did not submit proof of a court-ordered eviction with her application.
3. On August 26, 2015, MDHHS denied Petitioner's application due to Petitioner's failure to submit proof of a court-ordered eviction.
4. On September 9, 2015, Petitioner requested a hearing to dispute the SER application denial and the amount of her Food Assistance Program (FAP) eligibility.

5. Petitioner testimony conceded she has no current dispute concerning FAP eligibility.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute the amount of her FAP eligibility. Petitioner's hearing request implied a dispute concerning her July 2015 FAP eligibility. Petitioner testimony indicated that she disputed a termination of FAP eligibility beginning June 2015.

Petitioner testimony conceded that MDHHS properly terminated her FAP eligibility. Petitioner further testified that she has no current dispute concerning FAP eligibility. Petitioner's testimony equated to a withdrawal of her hearing request concerning FAP benefits. Accordingly, Petitioner's hearing request, concerning FAP eligibility, will be dismissed.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by MDHHS (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049. MDHHS policies are contained in the Emergency Relief Manual (ERM).

Petitioner requested a hearing, in part, to dispute a denial of SER. Petitioner's SER application specifically sought payment for a rent arrearage. MDHHS presented a State Emergency Relief Decision Notice (Exhibits 1-2) dated August 26, 2015, verifying the reason for denial was petitioner "did not have a court-ordered eviction."

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. Among the SER requirements for relocation, is that the group is homeless (see *Id.*) or potentially homeless (see *Id.*, p. 6).

Among the acceptable verifications for potential homelessness is an eviction, judgment, or court order from last residence (see *Id.*). A demand for possession non-payment of rent or notice to quit is not acceptable [verification of potential homelessness]. *Id.*

It was not disputed that Petitioner submitted a Notice to Quit with her SER application in an attempt to verify her emergency. MDHHS responded by denying Petitioner's SER application the same date Petitioner applied. Presumably, MDHHS assumed that Petitioner's landlord had not yet pursued eviction in court. In essence, MDHHS denied Petitioner's application due to Petitioner's failure to verify potential homelessness.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (October 2013), p. 6. [MDHHS is to] use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. *Id.* The due date is eight calendar days beginning with the date of application. *Id.*

MDHHS testimony conceded that Petitioner's application was denied without knowing if Petitioner had a court-ordered eviction at the time she applied for SER. It was also not disputed that MDHHS did not mail Petitioner a Verification Checklist (VCL) requesting proof of a court-ordered eviction before Petitioner's application was denied.

Consideration was given to overlooking the failure by MDHHS to mail Petitioner a VCL because Petitioner testimony conceded her landlord initiated court proceedings after Petitioner sought SER. This consideration was rejected because it is plausible that the eviction process started before the date of denial had MDHHS properly requested verification of eviction.

It is found that MDHHS failed to request verification of Petitioner's court-ordered eviction before denying Petitioner's application. Accordingly, the denial of Petitioner's SER application was improper.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning the termination of FAP eligibility effective June 2015. Petitioner's hearing request is **PARTIALLY DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's SER application. It is ordered that MDHHS perform the following actions within 10 days of the date of mailing of this decision:

- (1) re-register Petitioner's SER application dated August 26, 2015; and
- (2) initiate processing of Petitioner's application subject to the finding that MDHHS must request verification of Petitioner's court-ordered eviction status before denying Petitioner's application.

The actions taken by MDHHS are **REVERSED**.



**Christian Gardocki**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **10/30/2015**

Date Mailed: **10/30/2015**

CG/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]  
[REDACTED]