

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

IN THE MATTER OF:



MAHS Reg. No.: 15-021165
Issue No.: 5001
Agency Case No.: [REDACTED]
Hearing Date: January 21, 2016
County: WAYNE-DISTRICT
31 (GRANDMONT)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 January 21, 2016, from Detroit, Michigan. The Petitioner was represented by the Petitioner, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Path Worker.

ISSUE

Did the Department properly deny the Petitioner's October 20, 2015, State Emergency Relief (SER) application for rent 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. The Petitioner applied for SER on October 20, 2015, requesting rent assistance to prevent eviction. Exhibit 1.
2. On her application for SER rent assistance, the Petitioner noted that the monthly rent was \$ [REDACTED] and that the amount to prevent eviction was \$ [REDACTED].
3. The Petitioner provided a court ordered eviction notice to the Department on October 27, 2015. The Notice indicated that money judgment in the amount of \$ [REDACTED] and costs of \$ [REDACTED] for a total of \$ [REDACTED]. Exhibit 3.

4. The Department issued an SER Decision Notice on October 29, 2015, denying the Petitioner's SER application for the reason that the shortfall amount, (unmet required payments) is equal to or greater than amount needed to resolve the emergency. Exhibit 4.
5. The Petitioner receives unearned income for Supplemental Security Income (SSI) of \$ [REDACTED] and Family Independence Program (FIP) cash assistance of \$ [REDACTED] which amount can vary, as it did in September 2015.
6. The Department did not include the FIP cash assistance unearned income when determining the shortfall and eligibility.
7. The Petitioner provided receipts of rent payments for the period April 2015 through September 2015. Exhibit 9. The Department did not include rent payments for September, August, July and August 2015 when determining the Petitioner's shortfall and eligibility. Exhibit 9.
8. The Petitioner requested a timely hearing on November 3, 2015, protesting the denial of her SER application.

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, the Department denied the Petitioner's request for rent assistance to avoid eviction and denied Petitioner's SER application due to the Department's determination that the shortfall amount (unmet payments) was equal to or greater than amount needed to resolve the emergency. Exhibit 4. The Petitioner provided a Judgment of Eviction in the amount \$ [REDACTED] Exhibit 3. In order to be eligible for SER, the housing must be affordable. SER relocation services assistance is available to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2015), p. 1. The policy requires that the total housing obligation is the total the SER group must pay for rent, and renters can have a higher obligation if heat electricity or water are included. ERM 207 (October 1, 2015), p. 1.

In processing an application for SER assistance for rent assistance, the Department must verify a client's shelter expenses for the six months preceding the client's application and the amount the client paid each of those months. ERM 303, p. 4. The

client must make required payments. ERM 303, p. 4. For relocation services, required payments are actual shelter expenses. ERM 204 (August 2015), p. 1. If the client has not made required payments **and** has no good cause for the nonpayment, a shortfall amount is determined, and the client must pay the shortfall amount toward the cost of resolving the emergency. ERM 303, p. 4; ERM 208 (October 2015), p. 4. Good cause for a failure to prevent a housing emergency exists if either of the following conditions are met: (i) for Petitioner's SER group size of 6, the group's net countable income from all sources during each month the group failed to pay its obligations was less than \$ [REDACTED] provided that the group's income was not reduced because of a disqualification of SSI or Department benefits for failure to comply with a program requirement; or (ii) the emergency resulted from unexpected expenses related to maintaining or securing employment, which expenses equal or exceed the monthly obligation. ERM 204, pp 1-2, 3; ERM 201 (March 2013), p. 1. An exception to this policy may be granted on a case by case basis only for unique and unusual circumstances. ERM 104 (August 2014), p. 1. The evidence did not support a finding of good cause for nonpayment.

Required Payments

- Verify the group shelter payments for the past six months and enter the obligation amount and verification source on the SER Required Payments screen. If required payments have not been made, Bridges will determine whether the SER group had good cause for non-payment of their shelter obligation during the last six months, regardless of the reason they are in need; see ERM 204. (ERM 303), p.4

Petitioners are required to provide rent receipts to the Department so the shortfall if any can be determined. The Petitioner's SER group size was 6 and thus the maximum relocation service amount available for rent assistance was \$ [REDACTED] ERM 303, p.7. The Petitioner demonstrated that she provided rent receipts for the 6 preceding months. Exhibit 9. In reviewing the receipts, the Department did not include rent amounts paid by the Petitioner for June, July and August and September 2015. The Department could not identify the amount of the shortfall and thus could not demonstrated that the shortfall was equal to or greater than the amount needed to resolve the emergency (\$ [REDACTED]). In addition, the Department testified that it did not use the FIP cash assistance unearned income when calculating net income and thus, any calculation it may have performed was incorrect as the wrong income was used.

Housing affordability is a condition of eligibility and requires that the total housing obligation be determined, which includes rent and utilities. The rent in this case was \$ [REDACTED]

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

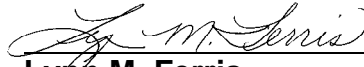
denied the Petitioner's SER application, because the shortfall amount is equal to or greater than the amount needed to resolve the emergency.

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. The Department shall reregister and reprocess the Petitioner's SER application dated October 20, 2015, and shall include the rent receipts in Exhibit 9 admitted at the hearing when determining eligibility for rent assistance.
2. Shall provide the Petitioner with SER assistance she is eligible to receive; and
3. The Department shall provide the Petitioner written Notice of its determination.



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **2/19/2016**

LMF/jaf

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:

