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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

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Date Mailed: November 2, 2016
MAHS Docket No.: 16-013625
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 27, 2016, from Detroit, Michigan. The Petitioner was represented by ██████████ (Petitioner). The Department of Health and Human Services (Department) was represented by ██████████ Hearings Facilitator; and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's State Emergency Relief (SER) application for rent to prevent eviction?

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 27, 2016, Petitioner submitted an SER application for rent to prevent eviction in the amount of ██████████. Exhibit A, pp. 4-17.
2. In the application, Petitioner reported that three people lived in her home, but only provided information for two of the household members. See Exhibit A, pp. 6-7.
3. On September 13, 2016, Petitioner provided the Department with a court order judgment that stated that Petitioner owed ██████████ for rent to retain possession, plus fees of ██████████, resulting in a total judgment order of ██████████. Exhibit A, p. 18.

4. On September 13, 2016, Petitioner also provided the Department with a resident ledger. Exhibit A, p. 19.
5. On September 13, 2016, the Department sent Petitioner an SER Decision Notice, which denied Petitioner's SER assistance request for rent to prevent eviction in the amount of [REDACTED] because her shortfall (unmet required payments) is equal to or greater than the amount needed to resolve the emergency. Exhibit A, pp. 20-21.
6. On September 16, 2016, Petitioner filed a hearing request, protesting the Department's action. Exhibit A, pp. 2-3.

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 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. The Department (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.

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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

Preliminary matters

First, Petitioner also requested a hearing to dispute her Food Assistance Program (FAP) and Medical Assistance (MA) benefits. Exhibit A, pp. 2-3. Shortly after commencement of the hearing, Petitioner testified that her FAP and MA issues had been resolved. As such, Petitioner's FAP and MA hearing request is DISMISSED.

Second, it was discovered that Petitioner reapplied for SER assistance and was again denied on October 25, 2016. The undersigned Administrative Law Judge (ALJ) lacks the jurisdiction to address her subsequent SER denial because this negative action occurred subsequent to her hearing request. Exhibit A, pp. 2-3. Petitioner can request another hearing to dispute her subsequent SER denial. BAM 600 (October 2015), p. 6 (the client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days).

Third, during the mid-point of the hearing, [REDACTED], the Hearings Facilitator, had to leave and [REDACTED], an Eligibility Specialist, came into the hearing room and represented the Department for the remainder of the hearing.

SER application

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 2015), p. 1.

If an application is made for shelter, heat, electricity or utilities, a determination of required payments (shortfall) must be made. ERM 208 (October 2015) p. 4. Required payments are determined based on the group size, the group's income and the obligation to pay for the service that existed during each month of the six months prior to application. ERM 208, p. 4. If the client failed without good cause to make required payments, a short fall amount is determined. ERM 208, p. 4. The client must pay the shortfall amount toward the cost of resolving the emergency. ERM 208, p. 4. Verification that the shortfall has been paid must be received before any SER payment can be made. ERM 208, p. 4.

ERM 303, Relocation Services, provides further information about good cause. ERM 303, p. 4. If required payments have not been made, the Department 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. ERM 303, p. 4. For example, a group in a homeless shelter or homeless due to a fire must have met required payments. ERM 303, p. 4. It should be noted that Petitioner testified that she was homeless from January 9, 2016 to April 15, 2016 due to a fire and was living with her daughter. However, policy still states that if she is homeless due to a fire, she still must have met the required payments. ERM 303, p. 4.

Based on Petitioner's testimony, she still had a shortfall that exceeded the need. Petitioner had a shortfall of approximately [REDACTED]. This shortfall exceeded the need of [REDACTED]. In fact, even if the undersigned took the fees into consideration, her shortfall still exceeded the need of [REDACTED]. The only way Petitioner can avoid the shortfall is 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. ERM 303, p. 4.

SER does not assist a group who failed to use their available money to prevent a shelter, energy or utility emergency. ERM 204 (August 2014), p. 1. A client-caused emergency is when an SER group fails to pay required payments for the six-month period prior to the month of application. ERM 204, p. 1.

Good cause may exist as a basis for an applicant's failure to prevent an emergency. ERM 204, p. 1. The Department establishes good cause for relocation services. ERM 204, p. 1.

Good cause for failure to meet obligations for shelter, energy, or utilities exists if:

- The SER group's net countable income from all sources during each month the group failed to pay their obligations was less than the amount shown for the SER group size in the good cause table.
- The income was not reduced by a disqualification of SSI or department benefits for failure to comply with a program requirement.

ERM 204, p. 2. The good cause amount for a SER group size of two is [REDACTED] and for three, because Petitioner claimed her group size is three, is [REDACTED] ERM 204, p. 3.

If the emergency resulted from unexpected expenses related to maintaining or securing employment, the Department verifies expenses for each month the group failed to pay their obligations. ERM 204, p. 2. The employment related expenses must equal or exceed the monthly obligation. ERM 204, p. 2. Payment differences are the responsibility of the SER group. ERM 204, p. 2.

Based on the above information, Petitioner did not meet any of the good cause reasons. The Department calculated Petitioner's net countable income to be at or above [REDACTED] during the last six months prior to the application month. See Exhibit A, p. 22. Petitioner did not dispute the calculation of the net countable income. Petitioner's net countable income was greater than the good cause amount of [REDACTED] for a SER group size of two or [REDACTED] for a SER group size of three. ERM 204, pp. 2 and 3. Thus, in this scenario, Petitioner's dispute with her group size did not change the outcome of the denial. Moreover, Petitioner's testimony indicated that she did not meet the good cause reason for the unexpected expenses related to maintaining or securing employment. See ERM 204, p. 2.

Based on the foregoing information and evidence, the Department properly denied Petitioner's SER assistance request for rent to prevent eviction in accordance with Department policy. Whether the undersigned applied the Department's shortfall calculation of [REDACTED] or Petitioner's shortfall calculation of [REDACTED] either shortfalls exceeded the total need of [REDACTED] or [REDACTED] (if including the fees). Because Petitioner's shortfall exceeds the need and she did not meet any of the good cause requirements, the Department properly denied the SER request in accordance with Department policy. ERM 103, p. 4; ERM 204, pp. 1-3; ERM 208, p. 4; and ERM 303, p. 4.

DECISION AND ORDER

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 properly denied Petitioner's SER application (dated August 27, 2016) for rent to prevent eviction.

Accordingly, the Department's SER decision is **AFFIRMED**.

IT IS ALSO ORDERED that Petitioner's **FAP** and **MA** hearing request is **DISMISSED**.

EF/tm



Eric J. Feldman

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

[REDACTED]
[REDACTED] [REDACTED]
[REDACTED]
[REDACTED]

CC: [REDACTED]
[REDACTED]