



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: January 24, 2017
MAHS Docket No.: 16-018304
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

ISSUE

1. Did the Department properly deny the Petitioner's Family Independence Program (FIP) Cash Assistance application for failure to complete a FAST?
2. Did the Department properly deny the Petitioner's State Emergency Relief (SER) application for relocation assistance and energy and utility 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 FIP on [REDACTED], and again on [REDACTED]. On the new application, the Petitioner provided a P.O. Box address.
2. The Department sent the Petitioner a Family Automated Screening Tool (FAST) referred Notice to [REDACTED], on [REDACTED]. Exhibit 1.

3. The Petitioner did not receive the FAST Notice as it was sent to her old address not the P.O. Box address. The Department did not receive returned mail.
4. The Department issued a Notice of Case Action on [REDACTED], closing the Petitioner's FIP Cash Assistance effective [REDACTED], for failure to complete the required FAST within 30 days of the notice. Exhibit 2.
5. The Petitioner applied for SER on [REDACTED]. Exhibit 6. The application was for energy services for heat, heat deposit, reconnect fee, service for electric bill, electric deposit or reconnect fee, non-energy relocation, (rent), (security deposit), moving expenses, non energy utility deposit reconnect fee, utility services water or sewerage, and SER cooking gas. Exhibit 6.
6. At the time of the SER application, the Petitioner advised the Department that she was homeless and listed her address as [REDACTED]. As regards the utility bills, they were for an old address that must be paid before service can be turned on. The Petitioner's electricity and heat were turned off as of [REDACTED].
7. The SER application advised that the Petitioner had no income from employment. Exhibit 6, p. 17.
8. The Department issue an SER Decision Notice dated [REDACTED], denying the SER application. Exhibit 8.
9. The Petitioner requested a timely hearing on [REDACTED].

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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 closed the Petitioners FIP cash assistance benefits effective [REDACTED], due to her failure to complete a FAST within 30 days. The FAST was not received by the Petitioner because she had a new address (P.O. Box) which she provided to the Department when she filed a new application with a new address on [REDACTED]. The FAST Referred Notice was sent to the Petitioner on [REDACTED], to her old address. Exhibit 1. Thus, the Department had notice of the new address prior to sending Petitioner the FAST and should have sent it to the new address. The FAST notice was sent to the Petitioner on [REDACTED], well after the new address was provided by way of another application. In addition, the Petitioner applied for SER on [REDACTED], and again provided the new address on that application (P.O. Box).

Based upon the evidence presented, it is determined that the Department did not provide the Notice to the correct address that it was advised of and should not have closed the Petitioner's FIP case on that basis. Although there was discussion about whether the Petitioner has exceeded the 60-month federal time limit for receipt of FIP cash assistance benefits, this issue was not the basis for the Department's closure of FIP and thus, cannot be considered at this time by the undersigned.

The Petitioner applied for SER on [REDACTED], for relocation expenses, rent and security deposit as well as energy services for heat, heat deposit, reconnect fee, service for electric bill, Electric Deposit or Reconnect fee, and non-energy utility deposit reconnect fee, utility services water or sewerage, and SER cooking gas. Exhibit 6. The Petitioner listed her address as a P.O. Box address. The Petitioner did not provide a Notice of Eviction with the application and stated in the application that she was homeless at the time. The Petitioner provided the Department a utility Shut-off Notice for [REDACTED], for gas and electric for [REDACTED]. The evidence did not establish that the Notice was provided with the [REDACTED], SER application. Exhibit 7. The Department presented no evidence that it sought verification of any of the application information. The Department denied the Petitioner's SER application by Decision Notice dated [REDACTED], specifically denying rent to relocate \$ [REDACTED] security deposit, \$ [REDACTED] Deposit reconnect fee \$ [REDACTED] Moving expenses \$ [REDACTED] non-heat electricity \$ [REDACTED] Non-Heat electricity/Reconnect Fees \$ [REDACTED] Exhibit 8.

SER applicants can file or obtain an application until at least 5:00 p.m. each business day. Accept and register an SER application if the following information is provided:

- Applicant name.
- Address or statement of homelessness.
- Birthdate.
- Applicant's or authorized representative's signature.

ERM 102, (October 1, 2013) p. 1

Clients must be informed of all verifications that are required and where to return verifications. The due date is eight calendar days beginning with the date of application. If the application is not processed on the application date, the deadline to return verifications is eight calendar days from the date verification is requested. This does not change the standard of promptness date.

Note: When the eighth day falls on a state-observed holiday, the due date for verifications to be returned will be extended to the following business day.

Use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications.

The client must make a reasonable effort to obtain required verifications. The specialist must assist if the applicant needs and requests help. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, use the best available information. If no evidence is available, the specialist must use their best judgment. ERM 103 (October 1, 2013), p. 6.

Presence in Michigan, not permanent residence, is required for SER eligibility. ERM 202 (June 1, 2015), p. 1.

If an application is made for shelter, heat, electricity or utilities, a determination of required payments must be made. 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; see ERM 204, ERM 301, ERM 302, ERM 303, ERM 304. If the client failed without good cause to make required payments, a short fall amount is determined. The client must pay the shortfall amount toward the cost of resolving the emergency. Verification that the shortfall has been paid must be received before any SER payment can be made. ERM 208, p. 4, (October 1, 2016).

ENERGY SERVICES

The bill must be connected to the group's current address. If the bill, including old or transferred balances, must be paid to start or maintain service at the current or new address, payment may be authorized up to the fiscal year cap, as long

as the payment resolves the emergency. ERM 301, (October 1, 2015), p. 5.

The following are covered utility services:

Payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. The payment must restore or continue service for at least 30 days at the current residence. However, payments for current charges are not allowed.

The bill does not have to be in the client's name but it must be connected to the group's current address. If the bill, including old or transferred balances, must be paid to start or maintain service at the current or new address, payment may be authorized up to the fiscal year cap as long as the payment resolves the emergency. ERM 302 (October 1, 2013), p. 1.

With respect to these services the Department is required to verify the income and asset copayment, shortfall and contribution have been paid by client, and as such must resolve the emergency. ERM 302, p. 3.

ERM 303 Relocation Services likewise requires that the Department verify homelessness and all other SER criteria must be met. In this case there was no evidence that any verification took place. The Department did not request verification of current address, proof of homelessness, verification of shelter payments for the last 6 months, housing affordability as required by ERM 303. (October 1, 2015), p. 4. In addition, housing affordability is a condition of eligibility for SER and applies only to Relocation Services. ERM 207 (October 1, 2015), p. 1. SER is to be denied if the group does not have sufficient income to meet their total housing obligation, which cannot exceed 75% of the group's total net countable income.

As regards the general denial for relocation services by the Department in its SER Decision Notice due to the Petitioner not having a court-ordered eviction notice and did not establish an emergency, the Department provided no proof that it requested the Petitioner to provide verification of homelessness or eviction. Exhibit 8.

Based upon the lack of evidence presented for the basis for the general denial of SER, the Department did not meet its burden of proof to demonstrate the facts it relied on to deny the November 14, 2016, SER application. In addition, housing affordability was not a basis for the SER denial and thus, cannot be determined by this Hearing Decision.

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 **did not** act in accordance with Department policy when it closed the Petitioner's FIP cash assistance for failure to complete a FAST as the Department did not send the FAST to the

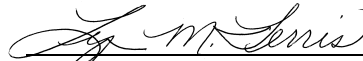
most current address. In addition, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Petitioner's SER application without seeking verifications as required by Department policy.

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 reinstate the Petitioner's FIP cash assistance case effective [REDACTED] and reprocess the case for the completion of the FAST and determine the Petitioner's eligibility for FIP.
2. The Department shall re-register the Petitioner's SER application dated [REDACTED], and re-process the application to determine eligibility for SER and seek verification of items required by Department policy in making its eligibility determination.

LMF/jaf



Lynn M. Ferris

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]

Petitioner

[REDACTED]

[REDACTED]