



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 26, 2017
MAHS Docket No.: 17-002957
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, an in-person hearing was held on April 6, 2017, from Detroit, Michigan. The Petitioner was represented by her attorney, [REDACTED] of [REDACTED]. The Petitioner did not appear. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor, and [REDACTED], Assistance Payments Supervisor.

ISSUE

Did the Department properly deny the Petitioner's application for State Emergency Relief (SER) for rent assistance 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 [REDACTED], the Petitioner submitted an application for SER to prevent eviction. [Respondent's Exhibit 1.]
2. A Judgment was entered in the [REDACTED] District Court in [REDACTED], Michigan, on [REDACTED], and was signed by the Petitioner and the Judge. The Judgment agreed to by the Petitioner required that Petitioner pay \$ [REDACTED] by [REDACTED], and \$ [REDACTED] by [REDACTED], and provided Petitioner had until [REDACTED], to pay remaining balance of \$ [REDACTED]. No money judgement was entered. The total rent due

was \$ [REDACTED]. The Judgment further stated that Plaintiff (landlord) could apply for an order evicting the Defendant, except as provided in paragraph 10. [Resp. Exhibit 2.]

3. A statement payment ledger for Petitioner's rent payments for rent received and balance due as of [REDACTED], indicated that \$ [REDACTED] was due. [Resp. Exhibit 3.]
4. A SER Decision Notice was issued on [REDACTED], denying the Petitioner's application indicating Petitioner failed to make payments. The court set up a payment schedule, which she failed to abide by per the apartment management; they will not take any payments, and client must move. [Resp. Exhibit 4.]
5. A SER Decision Notice was issued on [REDACTED], denying the SER application stating in the Comments: Per ERM 103 and 303 SER payment must resolve the emergency. Property Management stated that they will not accept the payment to prevent eviction since Client failed to abide by a court ordered payment plan. [Resp. Exhibit 5.]
6. A Stipulation and Order issued [REDACTED], in [REDACTED], LLC v [REDACTED] [REDACTED] Ordered: that Plaintiff (Landlord) shall accept the funds tendered by [REDACTED] County/[REDACTED] in the amount of \$ [REDACTED] to satisfy the judgement entered in this matter on [REDACTED]. The Order quashed the writ of execution and set aside the [REDACTED], Judgment and dismissed with prejudice. [Petitioner Exhibit A.]
7. The Petitioner requested a timely hearing request on [REDACTED], protesting the Department's actions.

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 two applications for SER based upon the Petitioner's failure to comply with the terms of the payment arrangement she agreed to as part of a court judgment entered in an eviction proceeding. A Judgment was entered in the [REDACTED] District Court on [REDACTED], and was signed by the Petitioner and the Judge. The Judgment agreed to by the Petitioner, provided that Petitioner agreed to pay \$ [REDACTED] by [REDACTED], and \$ [REDACTED] by [REDACTED], and provided Petitioner

had until [REDACTED], to pay the remaining balance of \$ [REDACTED]. No money Judgment was entered. The total rent due was \$ [REDACTED]. The Judgment further stated that Plaintiff (landlord) could apply for an order evicting the Defendant except as provided in paragraph 10. The Petitioner applied for SER on [REDACTED], after she entered into the payment arrangement with her landlord.

The landlord was contacted by the Department to verify the rent payments previously made by Petitioner as part of the rent verification process and to determine eligibility. ERM 303, (October 1, 2015), p. 4. The Department spoke to the property manager and was advised that it was the landlord's position that it would not accept payments, and it had requested immediate eviction because the Petitioner had not made the first two payments she agreed to make pursuant to the Judgment. The landlord stated they would not accept payment from the Petitioner to prevent eviction. Thus, at the time of the SER application, the Petitioner had not made either of the agreed two payments to avoid eviction.

The Department contacted the landlord again on [REDACTED], because Petitioner's attorney had advised that the landlord would accept rent payments. The Department was again told by the landlord that they would not accept rent to prevent eviction. Thereafter, Petitioner's attorney obtained a Stipulation and Order compelling the Landlord to accept rent from the Petitioner on [REDACTED], well after the SER denials.

The Department contends that it complied with Department policy when it denied the SER application for rent assistance. The Department reasoned that it could not make payments to Petitioner that the Landlord advised he would not accept. Department policy provides:

Certain conditions must be met before SER can be issued to help individuals and families whose health and safety are threatened:

- The SER payment must resolve the emergency. ERM 103, (February 1, 2017), p. 3.

When authorizing relocation services the Department must:

Accept the decision of the SER group regarding use of the relocation funds authorized. **The issuance amount must resolve the group's shelter emergency.** Authorize any combination of the following services:

- First month's rent.
- Rent arrearage. ERM 303, (October 1, 2015), p. 1. (Emphasis supplied).

Based upon its responsibility to determine eligibility, the Department was required to review verification sources as required by Department policy. As part of its process, the Department must verify need amount and in doing so may consider, written statements

from the shelter provider, Order of Judgment, and also rent receipts and statement from the landlord may also be considered.

In this case, the Department was advised by Petitioner's attorney that the Landlord could not refuse to accept rent, and requested the SER application be reprocessed. [Petitioner Exhibit B.] The maximum amount of rent assistance the Department may authorize for a group of one, assuming eligibility is \$ [REDACTED] ERM 303, p. 7. This amount would have not avoided the eviction. In addition, at the hearing, the Petitioner's attorney advised that the landlord could not legally refuse to accept rent. In reviewing the emails sent to the Department by Petitioner's attorney, the [REDACTED], another community group committed to assist Petitioner with rent in the amount \$ [REDACTED] thus, even with the Department's SER funds, additional funds would have been needed to meet the rent due to prevent eviction. This was communicated to the Department via email on [REDACTED]. [Petitioner Exhibit B.] However, the big impediment to approving Petitioner's SER request for rent assistance was the fact that on two occasions, the Department was advised by the Landlord that it would not accept rent and that the Petitioner had not made the necessary payments to avoid eviction. In addition, the Judgement does provide that Acceptance of partial payment of the total amount due ... will not prevent the court from issuing an order evicting the Defendant. [Resp. Exhibit 2, paragraph 6.]

At the hearing, Petitioner's attorney advised that all the money to prevent eviction was provided to the Landlord; and the eviction was avoided; thus, the emergency was fortunately resolved. Under these circumstances, no further assistance by the Department can be granted because the emergency was resolved.

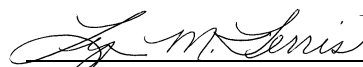
After reviewing all the facts, testimony and documentary evidence, it is determined that the Department properly denied the Petitioner's SER application as payment of the funds would not have resolved the emergency.

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 denied the Petitioner's requests for SER.

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

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

Counsel for Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]

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