



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: June 5, 2017
MAHS Docket No.: 17-004275
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 30, 2017, from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Richkelle Curney, Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's State Emergency Relief (SER) application for assistance with rent?

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 January 18, 2017, the Department received a Landlord-Tenant Judgment signed by the court on January 10, 2017 finding by default that Petitioner owed his landlord \$9,875 (Exhibit 2).
2. On [REDACTED] 2017, Petitioner applied for SER assistance with rent. The application included a letter from Petitioner's landlord indicating that Petitioner had paid \$300 monthly from October 2016 to March 2017 (Exhibit 1).
3. On March 13, 2017, the Department sent Petitioner an Application Notice informing him that he was not eligible for SER assistance. The "specialist comments" portion

of the Notice advised him that he needed a landlord judgment/summons or a court-ordered eviction notice and to reapply when he has the document. (Exhibit 3.)

4. On [REDACTED] 2017, the Department received Petitioner's request for hearing disputing 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.

Petitioner disputed the Department's denial of his SER application with assistance with rent. The Department testified that Petitioner submitted an application on [REDACTED] 2017 that it denied on March 13, 2017. At the hearing, Petitioner alleged that he had submitted two prior applications in 2017. The Department acknowledged that it received a copy of a landlord-tenant judgment on January 18, 2017 but testified that no application was submitted in connection with the application other than the [REDACTED] 2017 application. Its electronic case file showed that the only SER application it had received from Petitioner prior to the [REDACTED] 2017 application was in [REDACTED] 2016. Petitioner did not have any copies of the applications he alleged he submitted or confirmation numbers from online applications. Because there was no evidence of a relevant SER application in 2017 other than the [REDACTED] 2017 application, this Hearing Decision is limited to whether the Department properly denied that application.

SER assistance with relocation services 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. As a condition of SER eligibility, the SER group must be homeless or at risk of homelessness. ERM 303, pp.1-2. To verify homelessness or risk of homelessness, the client can provide, among other things, an eviction, judgment, or court order from his last residence which will result in the SER group becoming homeless. ERM 303, pp. 3, 5, 6. A demand for possession for non-payment of rent or notice to quit is not acceptable. ERM 303, pp. 5, 6.

In this case, Petitioner presented a Judgment Landlord-Tenant signed by a judge on January 10, 2017. (Exhibit 2). The judgment indicates that it is a possession judgment, with the court finding that the landlord had the right to recover possession of the property and Petitioner owed the landlord \$9,875 for nonpayment of rent and other money due under the lease. The order indicated, in compliance with MCL 600.5744(4), that the landlord could apply for an order evicting Petitioner if Petitioner did not pay the

amount indicated or move out on or before January 20, 2017. The Department did not explain why the judgment was insufficient other than to state that it was more than 30 days old and Petitioner continued to remain in the premises. The Department did not reference any policy provision or other evidence to establish that the judgment presented was insufficient evidence of risk of homelessness. Under the evidence presented, the Department did not act in accordance with Department policy when it denied Petitioner's SER application on the basis that Petitioner did not have a court-ordered eviction notice.

At the hearing, the Department also alleged that Petitioner's housing was not affordable. As a condition for SER eligibility for shelter emergency assistance, housing must be affordable as defined under ERM 207. ERM 303, p. 4. Housing is affordable if the SER group has sufficient income to meet ongoing housing costs, plus any utility obligations. ERM 207 (October 2015), p. 1. The total housing obligation cannot exceed 75% of the group's total net countable income but this percentage can increase depending on whether utilities are included in the rent. ERM 207, p. 1.

In this case, the Department failed to establish Petitioner's monthly housing obligation, his monthly income, and whether his rent included utilities and which utilities. In the absence of such evidence, the Department has failed to satisfy its burden of showing that it properly denied Petitioner's [REDACTED], 2017 application on the basis that housing was not affordable.

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 denied Petitioner's March 7, 2017 SER application.

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. Reregister and reprocess Petitioner's [REDACTED], 2017 SER application;
2. Notify Petitioner of its decision; and

3. If applicable, pay Petitioner's landlord for any approved amounts as provided in the SER Decision Notice in accordance with Department policy.



ACE/tlf

Alice C. Elkin

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

Via Email:

MDHHS-Wayne-17-Hearings@michigan.gov
BSC4 Hearing Decisions
T. Bair
E. Holzhausen
MAHS

**Petitioner –
Via First-Class Mail:**

[REDACTED]
[REDACTED]
[REDACTED]