



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: January 5, 2018
MAHS Docket No.: 17-014301
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; 42 CFR 438.400 to 438.424; 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 December 11, 2017, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator and [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny the Petitioner's Application for State Emergency Relief (SER) 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 requested a hearing regarding the closure of her medical assistance and at the hearing withdrew her request for hearing on the record as the medical assistance issue had been resolved.
2. The Petitioner applied for SER on October 5, 2017 and October 10, 2017, and the Department denied both applications on October 9, 2017 and October 16, 2017 due to the Petitioner's income/asset copayment and Petitioner's shortfall (unmet payments) is equal to or greater than the amount needed to resolve the emergency. Exhibit A, p. 14 and 17.

3. The Petitioner receives RSDI due to disability in the amount of [REDACTED] monthly and each of her three children receive \$ [REDACTED] based upon Petitioner receiving RSDI. The total group income (unearned) monthly is \$ [REDACTED]
4. The Department determined that the Petitioner had a shortfall of [REDACTED] based upon nonpayment of rent for July ([REDACTED] August [REDACTED] and September 2017 for [REDACTED]. See Application.
5. The Petitioner's application requested [REDACTED] as the need amount based upon the Court Judgement dated August 23, 2017 subjecting the Petitioner to an Order of Eviction for September 5, 2017 unless she paid the amount due or moved. Exhibit B.
6. The Petitioner requested a timely hearing on November 9, 2017 protesting the denial of her applications for SER.

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.

At the hearing the Petitioner withdrew her hearing request on the record regarding medical assistance, as the issue regarding the medical assistance had been resolved and the Petitioner no longer required a hearing regarding this issue.

In this case, the Petitioner was seeking rent assistance due to back rent owed of [REDACTED] and costs of [REDACTED] for a total of [REDACTED] based upon a Court Judgement for [REDACTED] to avoid eviction. The Petitioner's SER application for October 10, 2017 was denied. The SER Decision Notice dated October 16, 2017 denied the SER application because the shortfall amount of [REDACTED] (unmet required payments) was equal to or greater than the amount needed to resolve the emergency (Exhibit A, pp. 15-17). At the hearing, the Department testified that the reason identified in the Notice decision supported its denial of Petitioner's SER application.

Individuals who fail to use their available money to prevent a shelter emergency are not eligible for SER assistance. 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. In processing an application for SER assistance with rent to prevent eviction, 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 (October 2015), pp. 1, 4; ERM 204, p. 1. The client must make required payments. ERM 303, p. 4. Required payments are actual shelter expenses. ERM 204 (August 2014), 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. In this case no good cause for nonpayment was presented by Petitioner at the time of application or at the hearing, thus the shortfall of \$1,600 was required to be paid by the Petitioner. ERM 303, p. 4; ERM 208 (October 2014), 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 one, the group's net countable income from all sources during each month the group failed to pay its obligations was less than \$270, 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 (October 2015), p. 1. An exception to this policy may be granted on a case by case basis only for unique and unusual circumstances. ERM 104 (October 2015), p. 1.

In this case, the Petitioner did not present a good cause reason. The Department presented testimony that Petitioner was responsible for monthly rent of [REDACTED] and failed to pay rent for July 2017, August 2017 and [REDACTED] September 2017, resulting in a shortfall of [REDACTED]. The shortfall is also consistent with the Landlord Tenant Judgement submitted by Petitioner with her application. The Petitioner's group unearned income was established as [REDACTED] per month and was confirmed by the Petitioner. Thus, the Petitioner was required to pay the [REDACTED] shortfall.

A second determination which must be made is the income copayment to be made based upon the group income of the applicant for SER.

A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in the SER Income Need Standards for Non-Energy Services. ERM 208, (October 2017), p.1. The Petitioner's non-energy SER services income need Standard for a group of 4 is [REDACTED] ERM 206 (February 2017), p. 7.

The Petitioner's net income is [REDACTED] a month and is more than the basic monthly income need standard of [REDACTED] for the group size and thus the income amount that exceeds the need standard is [REDACTED] which is the income copayment. [REDACTED] = [REDACTED]). The income copayment must be deducted from the cost of resolving the

emergency. When this is done the cost of resolving the emergency is [REDACTED] - [REDACTED]

Because the Petitioner's shortfall of [REDACTED] in unpaid rent exceeds the amount needed to resolve the emergency [REDACTED], the Department correctly determined that Petitioner's application for SER for rent assistance must be denied. The Department's notice although was correct in denying the application, the notice did not properly explain the process the Department used to determine Petitioner's eligibility and deny the application.

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 SER application because the shortfall exceeded the amount to resolve the emergency.

The Petitioner withdrew her hearing request dated November 9, 2017 regarding Medical Assistance on the record as the matter was resolved.

DECISION AND ORDER

Accordingly, the Department's decision regarding the denial of the Petitioner's SER application is **AFFIRMED**.

The Petitioner, having withdrawn her November 9, 2017 hearing request regarding Medical Assistance on the record the hearing request is hereby DISMISSED.

It is so ORDERED.

LF/tm



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]
[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]

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

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