



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 13, 2018
MAHS Docket No.: 18-000403
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 March 8, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by [REDACTED] Hearing Facilitator.

ISSUE

Did the Department properly deny Petitioner's State Emergency Relief (SER) applications from October 2017 and December 2017?

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 October 11, 2017, Petitioner submitted an application for SER assistance for a security deposit to help her move; she did not need assistance with rent as she was receiving Section 8 Housing Assistance.
2. On October 20, 2017, the Department issued a State Emergency Relief Decision Notice (SERDN) denying Petitioner's SER application because she had an existing child support sanction and because the shelter was not affordable.
3. On November 21, 2017, the child support sanction was removed and the removal was back dated to the initial sanction date of August 14, 2017.

4. On December 6, 2017, Petitioner submitted a second SER application again seeking assistance with a security deposit to enable her to move; she did not need assistance with rent as she was receiving Section 8 Housing Assistance.
5. On December 13, 2017, the Department issued a second SERDN denying Petitioner's request for SER assistance because her shelter was not affordable.
6. On January 9, 2018, Petitioner submitted a third SER application seeking assistance with the security deposit as well as heat and electric bills.
7. On the same day, Petitioner submitted a hearing request disputing the denial of her SER applications.
8. On January 18, 2018, after the request for hearing was submitted, the Department issued a third SERDN denying Petitioner's SER application because her shelter was not affordable.

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.

As a preliminary matter, clients of the Department can request hearings within the first 90 days after a written notice of case action. BAM 600 (January 2018), p. 6. In this case, Petitioner requested a hearing on the same day that she submitted a third application for SER assistance. The Department did not take action on the third application until nine days later. Since the request for hearing occurred before the action was taken on the third application, the Michigan Administrative Hearing System (MAHS) does not have jurisdiction to address the decision of the Department regarding the third application. However, the decision of the Department with regard to the October and December SER applications were within the 90-day period immediately preceding Petitioner's request for hearing and will be addressed below.

In this case, Petitioner was seeking SER assistance with a security deposit in order to relocate because of concerns over domestic violence. The Department denied her October application because she had an active child support sanction and because the Department deemed the relocation not affordable in Petitioner's circumstances. The Department denied Petitioner's December application because the relocation was not affordable.

SER is available to assist in resolving or preventing homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2017), p. 1. Assistance provided must resolve the group's shelter emergency and any combination of the following services may be provided:

- First month's rent.
- Rent arrearage.
- Security Deposit (if required).
- Moving expenses (to relocate household effects).

Id. Relocation services are authorized only if one of the following circumstances exists and **all** other SER criteria are met including documentation of need, housing affordability under ERM 207, required payments from the past six months if applicable, shelter verification if applicable. ERM 303, pp. 2, 4-5.

- The SER group is homeless. The definition of homelessness for SER means that there is no housing that the group can return to. To be considered homeless, the SER group must meet one of the following criteria:
 - Has a primary nighttime residence that is a public or private place not meant for human habitation (such as in the car or on the streets).
 - Is living in an emergency shelter designated to provide temporary living arrangements (including congregate shelters, transitional housing, and hotels and motels paid for by charitable organizations or by federal, state, and local government programs); or
 - Is living in an institution where he/she has resided for 90 days or less and who resided in an emergency shelter or place not meant for human habitation immediately before entering that institution.
- The SER group is at risk of homelessness. This does not include groups who voluntarily left their home but can return without a threat to their health or safety, are not homeless.
- The SER group meets the eligibility requirements for one of the following assistance programs:
 - Family Re-Housing Program.
 - Rural Homeless Permanent Supportive Housing Initiative.

ERM 303, p. 2.

Housing affordability is a condition of eligibility for SER and applies to Relocation Services and Home Ownership Services and Home Repairs. ERM 207 (October 2015),

p.1. Affordable housing is defined as a group having a total housing obligation which does not exceed 75% of the group's total net countable income. *Id.*; ERG Glossary (February 2017), p. 1. Total housing obligation means the total amount the SER group must pay for rent. *Id.* If renters heat, electricity, and/or water/cooking gas are included in the rent, the group can have a higher total housing obligation. ERM 207, p. 1. If heat is included, the percentage increases to 90% of income. ERG Glossary p. 1. If electricity is included, the percentage increases to 80% of income. *Id.* Finally, if water and/or cooking gas is included, the percentage increased to 80% of income. *Id.* A person/family who receives a voucher from the Family Re-Housing Program meets the affordability requirements. ERM 207, p. 1. A client who receives Rural Homeless Permanent Supportive Housing Initiative (RHPSHI) assistance should not be denied because they do not have sufficient income for the rent because the program pays fair market rent and the client pays 30% of their income. *Id.* Therefore, only 30% is counted as the client's obligation for purposes of calculating affordability. *Id.*

Petitioner is not required to pay rent, she has no personal obligation toward her rent because she received Section 8 Housing Assistance. While the record is not clear if the Family Re-Housing Program is the same as Section 8 assistance, it would appear that they are very similar. Likewise, the RHPSHI appears to be similar and sets a responsibility level for its recipients. Therefore, the Department should consider Petitioner's Section 8 Assistance and her resulting personal responsibility level when determining Petitioner's housing affordability just as is done for the RHPSHI program and Family Re-Housing Program. The Department erred by not considering it.

Finally, it should be noted that Petitioner's Child Support sanction was removed on November 21, 2017, and retroactively applied as of the original sanction date. Therefore, the Department can reconsider Petitioner's SER application from October 2017 after receipt of this decision and it will not preclude the Department from making a finding in favor of the Petitioner if all other SER relocation services eligibility factors are met.

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 SER application without consideration of her Section 8 assistance.

DECISION AND ORDER

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. Reprocess Petitioner's October 2017 SER application for assistance;

2. If Petitioner's is eligible for SER assistance based upon the October 2017 application, issue benefits in accordance with Department policy;
3. If Petitioner is not eligible for SER assistance based upon the October 2017 application, reprocess Petitioner's December 2017 SER application for assistance;
4. If Petitioner is eligible for SER assistance based upon the December 2017 application, issue benefits in accordance with Department policy; and
5. Notify Petitioner in writing of its decision(s).



AM/

Amanda M. T. Marler

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]

Petitioner

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