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GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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Date Mailed: December 16, 2022
MOAHR Docket No.: 22-005376
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 14, 2022. The Petitioner appeared and represented herself. A representative from the Department of Health and Human Services (MDHHS) did not appear for the hearing and the hearing was held in the absence of the Department.

Petitioner agreed to the admission of the 15-page hearing packet submitted by MDHHS prior to the hearing. These documents were admitted into evidence as Exhibit A.

ISSUE

Did MDHHS properly deny Petitioner's State Emergency Relief (SER) application?

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 ██████████ 2022, Petitioner applied for SER for assistance with a security deposit and rental payment to relocate to a new home. Petitioner indicated on her application that her current home did not pass two housing inspections and she would like to move before becoming homeless (Exhibit A, pp. 8-13).
2. Petitioner is a part of the Housing Choice Voucher Program (formerly known as Section 8 housing).
3. Petitioner is a group size of three, consisting of her two minor children and herself.

4. On [REDACTED] 2022, MDHHS issued an Application Notice to Petitioner, informing her that her SER application was denied for failure to provide proof of a court summons, order, or judgment (Exhibit A, pp. 14-15).
5. On November 3, 2022, MDHHS received Petitioner's timely submitted hearing request, disputing the denial of her SER application (Exhibit A, pp. 3-6).

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.

A MDHHS representative did not participate in the hearing. The hearing summary prepared by MDHHS was read into the record, stating that:

Customer, Tanisha Goudy, applied for SER on [REDACTED] 2022 for assistance with rent and security deposit. Customer did not submit an eviction, judgment, or summons. SER was denied on [REDACTED] 2022. Customer was sent 1150 Eligibility Notice with reason for denial on [REDACTED] 2022.

Petitioner timely submitted a request for hearing to dispute the denial of her SER application.

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. The amount issued by MDHHS must resolve the group's shelter emergency. MDHHS may authorize any combination of moving expenses (to relocate household effects), security deposit (if required), first month's rent, and rent arrearage. ERM 303 (October 2020), p. 1. Relocation services may only be authorized if the following circumstances exist and all other SER criteria met:

- The SER group is homeless, meaning that there is no housing for the group to return to.
- The SER group is at risk of homelessness. Persons at imminent risk of homelessness must provide a court summons, order or judgment resulting from an eviction action.

- The SER group meets the eligibility requirements for a homeless assistance programs.

ERM 303, pp. 1-3.

MDHHS must verify documentation of need that the SER group is eligible for relocation services. A MDHHS services worker or MDHHS specialist, with supervisory approval, must determine the family must be relocated from unsafe housing for the protection of the children. ERM 303, p. 3. MDHHS must verify that the current rental unit is unsafe structurally or is otherwise a threat to the health and safety of the family. ERM 303, p. 6.

In this case, Petitioner credibly testified that she lives with her two minor children in a house as part of the Housing Choice Voucher Program (formerly Section 8). Petitioner testified that her current house has failed multiple inspections, has no screens on the windows, and has issues with electricity and heat. Petitioner has worked with her landlord and the Housing Choice Voucher Program to resolve these issues, but to no avail. Petitioner is at risk of homelessness due to the unsafe housing that her children live in. Petitioner has looked to relocate without SER but testified that all shelters are at capacity and she has no family able to accommodate her family. Petitioner seeks SER relocation assistance to move her family to safe housing. MDHHS denied Petitioner's SER application, stating that she did not provide proof of a court summons, order or judgment resulting from an eviction action. However, no evidence was presented that MDHHS evaluated whether Petitioner's current rental unit is unsafe structurally, or is otherwise a threat to the health and safety of the family, for the protection of the children. MDHHS is required to evaluate whether Petitioner meets any criteria, as discussed, to receive SER, not just whether she is facing eviction action. Therefore, MDHHS has failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SER 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's SER application for failure to submit proof of court summons, order or judgment resulting from an eviction action.

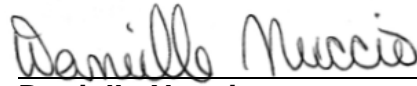
DECISION AND ORDER

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 the [REDACTED] 2022 SER application and evaluate Petitioner's eligibility in accordance with this decision;

2. If Petitioner is eligible for benefits, issue supplements to Petitioner for any SER benefits she was eligible to receive but did not from [REDACTED] 2022 ongoing;
3. Notify Petitioner of its decision in writing.



Danielle Nuccio

Administrative Law Judge

DN/mp

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail :

DHHS
MDHHS-Wayne-31-Grandmont-Hearings
E. Holzhausen
K. Schulze
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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