

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Claimant

Reg. No.: 2009-8884
Issue No.: 5016
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 13, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on May 13, 2010. The claimant personally appeared and testified.

ISSUE

Did the Department properly deny the claimant's application for State Emergency Relief (SER)?

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 November 7, 2008, the Claimant applied for SER for utility services.
2. On November 12, 2008 the Department sent the Claimant notice that her application for SER was denied for lack of verification of income. (Department exhibit 1).
3. On December 1, 2008, the claimant filed a request for a hearing.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, et seq., and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the State Emergency Relief Manual (SER).

At the hearing the department testified that it was relying on the SER application to supply notice to the claimant of income verification required. (Department exhibit 3)

VERIFICATION

Clients must be told what verification is required, how to obtain it, and the **due date of eight days** beginning with the date of application. Use the DHS-3503, Verification Checklist, to request verification.

In the event the application is not processed on the application date, the client must always be allowed eight days to provide verification. The deadline is eight days from the date verification is requested. This does not change the standard of promptness date.

The client must make a reasonable effort to obtain required verification, but the specialist must assist if the applicant needs and requests help. If neither the client nor the specialist can obtain verification despite a reasonable effort, use the best available information. If no evidence is available, the specialist must use their best judgment. (ERM 103, p.5)

In the instant case the department did not “tell” the claimant what verification was required as demanded by ERM 103 but relied on wording in the application that says, “ Is anyone in your household employed? YES NO If yes, it is necessary that we project income for the next 30 days. List all earnings that anyone who resides in your household expects to receive in the next 30 days. ATTACH CURRENT PROOF.”

In this section the claimant marked yes and listed employment and his gross earnings per week. The department chose to ignore this information and relied on the words “attach current proof,” to deny the claimant’s application without informing him of the fact that his application would be denied without it.

The department could have used the document of the claimant’s statement on the application as proof. If it deemed this documentation insufficient it was bound by ERM 103 to use a DHS 3503 to attempt to gather the requested information/verification.

This ALJ finds the department erred in denying the claimant’s SER application.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES AND ORDERS the department to reregister the claimant’s SER application back to November 7, 2008, and pay the benefits available to the claimant under the SER utility program at that time.



Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 6/10/2010

Date Mailed: 6/10/2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

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The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

MJB/jlg

cc:

