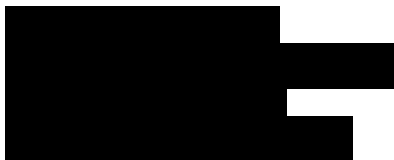


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201052833
Issue No.: 5005
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 29, 2010
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on November 29, 2010. The Claimant's Authorized Hearings Representatives, [REDACTED] and [REDACTED] appeared at the hearing and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's State Emergency Relief eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant's Authorized Representatives applied for SER benefits on July 1, 2010.
- (2) On July 2, 2010 a verification checklist with a July 9, 2010 due date was sent to Claimant requesting bank account verifications.
- (3) Claimant's application for SER was denied on July 13, 2010 for failing to return verifications.
- (4) Claimant's representatives did not receive the verification checklist.

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- (5) Claimant's representatives submitted the bank account verifications on July 21, 2010.
- (6) Claimant requested a hearing on August 22, 2010 contesting the denial of SER benefits.

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. The Department of Human Services' [formally known as the Family Independence Agency] policies are found in the State Emergency Relief Manual ("ERM").

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The questionable information might be from the client or a third party. *Id.* The Department can use documents, collateral contacts or home calls to verify information. *Id.* The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; BEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. BAM 130, p. 4. Before making an eligibility determination, however, the Department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.


In the present case, Claimant's representatives credibly testified that they did not receive the verification checklist. It should also be noted that the verification checklist failed to give Claimant the requisite 10 days contrary to Department policy. BAM 130. This Administrative Law Judge cannot find that Claimant refused to cooperate or failed to make a reasonable effort to cooperate. Therefore the Department's denial of State Emergency Relief for failing to cooperate is improper and incorrect.

DECISION AND ORDER

This Administrative Law Judge decides that the Department was incorrect in the denial of SER benefits, and it is ORDERED that the Department's decision in this regard be, and is, hereby REVERSED. Claimant's SER application for burial services shall be

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reinstated and reprocessed going back to the date of application.



Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: December 2, 2010

Date Mailed: December 2, 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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cc:

