

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No: 20114313

Issue No: 5003

Case No: ██████████

Load No: ██████████

Hearing Date:

December 9, 2010

Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Claimant's request for hearing. After due notice, a [telephone](#) conference hearing was held on [December 9, 2010](#). The claimant was present and her representative, ██████████ were present and testified.

ISSUE

Did the Department properly process the Claimant's application for State Emergency Relief (SER) application filed in August 2010?

FINDINGS OF FACT

This Administrative Law Judge, based upon the evidence on the whole record, finds as material fact:

1. The Claimant submitted an application for SER assistance in August 2010.
2. The Claimant and her ██████████ worker, ██████████ contacted the Department several times in August 2010 to obtain information regarding the application.
3. The Claimant filed a second SER application on September 20, 2010.
4. On September 29, 2010, the Claimant was sent a DHS 1605 Notice of Case Action denying her request for SER assistance.

5. On September 22, 2010, the Department received the claimant's Request for Hearing DHS 1605 protesting the Department's failure to process her July application for SER.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 (DHS or department) policies are found in the State Emergency Relief Manual (SER).

Department policies are found in the Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM). Erma Department Policy states:

ERM 102 Right to Apply

SER applicants can file or obtain an application until at least 5:00 p.m. each business day. Accept and register an SER application if the following information is provided:

- Applicant name.
- Address or statement of homelessness.
- Birth date.
- Applicant's or authorized representative's signature.

Applicant Responsibilities

Applicants must cooperate with the following:

- The application process.

- Provide verifications.
- Answer all questions truthfully and completely, whether written or oral.

Deny SER if applicants refuse to take action or provide information within their ability, or withdraw their application.

Department Responsibilities

The Department of Human Services must provide the following:

- Help in completing forms, answering inquiries, or obtaining verification.
- Confidentiality.
- Information about department programs.
- Assistance to applicants who have trouble reading and/or understanding.

ERM 405 OVERVIEW

A **case record** is a folder, with a numbered tab, established for a particular client group and containing all forms, documents and other evidence relevant to the group's current and past eligibility for all programs. A household/eligibility determination group who receives benefits from **more than one program** should have a single case record. Do not create a separate case record for each program.

All documents (including DHS forms), notices and other written correspondence regarding the group's eligibility, benefit status or benefit level must be organized into packets and filed in one case record. Case records must document **all** of the following:

- Date of application.
- Date and basis for disposition of the application/request.
- Facts essential to the eligibility determination.

- Amount or level of benefits.
- Actions taken by the local office regarding the case.

Confidential Nature of Case Records

Federal and state laws restrict the use and release of client information. See BAM 310, Confidentiality and Public Access to Case Records for the conditions and requirements.

Record Retention

No case record material can be removed and destroyed unless DHS policy regarding retention and disposal is met. Administrative Handbook Records Management & Warehousing (AHS) 502 has instructions.

In this case, Claimant contends that she filed an SER application for rent assistance. She states that she brought the application to the local office and had it stamped received. She states that she never received any response to this application. She states that she applied for both CDC and SER assistance. The Department states that they are unable to find the Claimant's actual case file. They are only able to reproduce a history of correspondence from the Bridges program. It reflects a Notice of Missed Appointment on July 2 and Child Care provider verification sent on August 10, 2010. The Department's computer print out shows 2 separate applications for SER one on 8/10/10 and one on 9/20/10. The Computer print out only shows 1 SER Decision Notice sent on September 29, 2010. [REDACTED] Caseworker for the Claimant, produced emails sent in August to the Department seeking information on the SER application filed "weeks ago". The Claimant contends that if the Department had processed her first application for SER assistance she would not have needed to file the second application that was denied because of the amount of money owed. It is found that the Claimant submitted an SER application on August 10, 2010. The Department's computer print out reflects that an application was given to the Claimant as of this date. Because the Department has lost the actual file, they have not produced any evidence to contradict the Claimant's credible claim that it was submitted. The Claimant's claim is found to be credible because it is clear and detailed and consistent. Furthermore, her [REDACTED] worker attempted to follow-up with the Department in August regarding the Application.

DECISION AND ORDER:

This Administrative Law Judge, based upon the above findings and conclusion of law, decides that the Department failed to process the Claimant's SER application filed on August 10, 2010. According, the Department shall process Claimant's SER application of August 10, 2010. Because the Department has lost the file, the Department shall have the claimant submit another SER application and an opportunity to provide all of the documentation necessary to prove eligibility.

It is so ORDERED.

/s/ _____
Kandra Robbins
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 22, 2010

Date Mailed: December 27, 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 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.

KKR/tg

cc:

