

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201213798
Issue No.: 5026
Case No.: [REDACTED]
Hearing Date: March 12, 2012
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on March 12, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with shelter emergency?

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 August 30, 2011, Claimant applied for SER assistance with shelter emergency.
2. On September 2, 2011, the Department sent notice of the application denial to Claimant.
3. On October 24, 2011, the Department received Claimant's hearing request, protesting the SER denial.

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, 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Additionally, Claimant filed a SER application on August 30, 2011 seeking relocation assistance with payment of her first month's rent and security deposit. In a September 2, 2011 SER Decision Notice, the Department denied the application on the basis that Claimant's housing was not affordable. Housing affordability is a condition of eligibility for SER benefits for housing relocation services and is based on the SER group's total net countable income. ERM 207; ERM 303. Housing is not affordable for the client if the total housing obligation exceeds 75 per cent of the SER group's total net countable income. ERM 207.

In this case, Claimant's total housing obligation was \$550. ERM 207. In August 2011, the month of her SER application, Claimant's income consisted of Social Security Income (SSI) benefits of \$674. ERM 201. Because 75% of Claimant's income was \$506, less than her \$550 monthly housing obligation, Claimant's housing would not be affordable if Claimant's income was her SER group's only net countable income.

However, at the hearing, Claimant credibly testified, and the Department confirmed, that she informed the Department at the time of her SER application that the plan was for her daughter to move in with her once she had reestablished her housing and to contribute \$300 towards the household's monthly expenses. The Department testified that it did not consider these additional funds in determining Claimant's SER group's total net countable income because Claimant had not included her daughter as a member of her SER group on her SER application.

A single SER group consists of persons who occupy the same home. BEM 201. For a homeless family or group of individuals, the SER group consists of the individuals who previously lived together in the same home and plan to do so again when they find permanent housing. ERM 201. Also, adults and dependent children who normally live together are in the same SER group. ERM 201.

At the hearing, Claimant credibly testified that, at the time of her SER application, she and her son had been moving from house to house, living with friends and family, but her daughter was living separately from her with Claimant's sister. It was not entirely clear from the record whether Claimant's daughter had lived with Claimant prior to her period of homelessness or qualified as a dependent under Department policy. However, the Department should have considered this issue in determining whether Claimant's daughter should have been included in the SER group. If she should have been a SER group member, then her income would also be considered in determining whether Claimant's proposed housing was affordable (unless Claimant's daughter's income was excluded earned income of a dependent child as provided in ERM 206).

By failing to determine whether Claimant's daughter should have been included in Claimant's SER group and whether her income would be considered in determining the SER group's total countable net monthly income, the Department did not act in accordance with Department policy when it determined the SER group's total net countable income.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly denied improperly denied Claimant's SER application for assistance with shelter emergency.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated above and on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's August 30, 2011 SER application;
2. Begin reprocessing the application in accordance with Department policy; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 20, 2012

Date Mailed: March 20, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/cl

cc:

