STATE OF MICHIGAN MICHIGAN ADMINISTRATIVE HEARING REVIEW ADMINISTRATIVE HEARINGS FOR THE DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

Reg. No:

201214997

Issue No:

5008

Hearing Date: February 2, 2012

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

HEARING DECISION

This matter is before me pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on February 2, 2012. Claimant and Department appeared by telephone and provided testimony.

<u>ISSUE</u>

Whether the department properly denied Claimant's State Emergency Relief (SER) application?

FINDINGS OF FACT

I find as material fact, based upon the competent, material and substantial evidence on the whole record:

- 1 On October 4, 2011, the Claimant applied for State Emergency Relief (SER) assistance.
- 2. On October 26, 2011, the Department sent the Claimant a State Emergency Decision Notice. The State Emergency Decision Notice indicated the Claimant's October 4, 2011 request was denied as his copayment was equal to or greater than the amount needed to resolve the emergency.
- 3. On November 1, 2011, the Claimant filed with the Department a request for hearing.

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 400.901-400.951. 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

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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 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).

Verification that the client has paid any shortfall and/or contribution must be obtained prior to the DHS payment being issued. ERM 301.

If the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied unless good cause granted. ERM 301.

In this case, the Department was unable to identify the amount of the copayment which they alleged exceeded the need amount. For this reason, I am reversing the Department.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law that the Department did not act in accordance with policy in determining the Claimant's SER eligibility.

The Department's SER eligibility determination is REVERSED.

The Department is ordered to:

1. Initiate a redetermination as to the Claimant's eligibility for SER relief beginning October 4, 2011 and issue retroactive benefits if otherwise eligible and qualified.

/S/___

Corey A. Arendt Administrative Law Judge For Maura D. Corrigan, Director Department of Human Services

Date Signed: _February 2, 2012

Date Mailed: February 2, 2012

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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.

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