

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

IN THE MATTER OF:



Reg. No.: 20121824
Issue No.: 5032
Case No.: [REDACTED]
Hearing Date: November 17, 2011
County: Jackson DHS

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 November 16, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], Specialist, and [REDACTED], Manager.

ISSUE

The issue is whether the Department properly denied Claimant's request for State Emergency Relief (SER) assistance based on a lack of 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 8/31/11, Claimant submitted an Application for State Emergency Relief (Exhibit 1) for assistance in resolving a shelter emergency.
2. Claimant sought \$425 (\$325 in rent and \$100 in security deposit) in SER funds to prevent being homeless.
3. On 9/1/11, the Department sent notice of the application denial to Claimant based on the reason that Claimant did not have a shelter emergency.

4. On 9/15/11, 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).

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization. The present case involves an SER request for first month's rent and security deposit payments.

In the present case, DHS denied Claimant's SER on 9/1/11 for failing to have a court-ordered eviction notice (see Exhibit 4). DHS conceded that this was an incorrect basis to deny the SER application. DHS contended that despite the incorrect reason, Claimant's application was properly denied on 9/1/11 because DHS had information that Claimant was going to move into the new residence on 9/1/11 (see Exhibit 2).

For the DHS contention to be accepted, it would have to be presumed that a client who has an emergency on the date of application is ineligible for SER assistance if the emergency is later resolved. DHS did not cite specific policy supporting this presumption. A research of SER policy did not uncover explicit support for the DHS presumption though the requirement could be inferred from other SER regulations.

Certain conditions must be met before SER can be issued to help individuals and families whose health and safety are threatened. ERM 103 at 2. The SER payment must resolve the emergency. *Id.* This requirement is peppered throughout SER regulations. This policy could imply that DHS regulations mandate an ongoing emergency from the date of application until some period following the application date. The period could be from the application date until: the date that the SER registration is processed, 10 days following the application date (based on a DHS self-imposed standard of promptness to process the application) or the date the actual payment is processed and sent by DHS. Alternatively, the policy might apply only to the date of application.

The ambiguity involved by inferring a requirement that clients have an ongoing emergency beyond the application date makes the policy interpretation an unappealing option. DHS has the ability to spell out its own policies. A simply written policy requiring an ongoing need for an emergency could have easily resolved the disputed issue. In the absence of such explicit policy, the most reasonable interpretation favorable to Claimant will be inferred. Accordingly, it is found that the emergency requirement applies only to the date of the SER application and not beyond.

It was not disputed that as of the date of the application, Claimant had an emergency need. DHS indicated that documentation supported that the emergency would be resolved on 9/1/11 while Claimant conceded that the emergency was resolved on 9/5/11. Based on the above interpretation of DHS regulations, the only consideration is that Claimant had an unresolved emergency on 8/31/11, the date of application. Applying the interpretation to the present case results in a finding that DHS erred in denying Claimant's emergency on the basis that Claimant resolved the emergency.

It should be noted that the above finding does not conclude that Claimant was eligible for SER, only that DHS improperly denied the application. DHS must still determine Claimant's SER eligibility based on other factors.

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

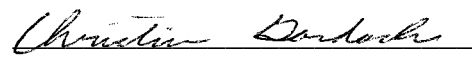
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- did act properly.
- did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated 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. DHS is to reinstate Claimant's SER application dated 8/31/11; and
2. DHS is to process the application without reference to Claimant resolving the emergency subsequent to 8/31/11.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/23/11

Date Mailed: 11/23/11

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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

