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

IN THE MATTER OF:

[redacted]

Reg. No.: 201231755
Issue No.: 5025
Case No.: [redacted]
Hearing Date: June 6, 2012
County: Wayne (31)

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 June 6, 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 November 3, 2011, December 28, 2011 and January 12, 2012, Claimant applied for SER assistance with shelter emergency.

2. On November 8, 2011, January 3, 2012, and January 19, 2012, the Department sent notices of the application denials to Claimant.

3. On January 27, 2012, the Department received Claimant's hearing request, protesting the SER denials.

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 applied for SER assistance towards payment of her property taxes on November 3, 2011; December 28, 2011; and January 12, 2012. The Department denied each of Claimant's applications, and Claimant filed a request for hearing.

November 3, 2011 SER Application

The Department testified that it denied Claimant's November 3, 2011, SER application in a November 8, 2011, SER Decision Notice on the basis that the amount due for the outstanding property taxes exceeded $2000. Home ownership services are available to save a home threatened with loss due to tax foreclosure or sale. ERM 304. A client is not eligible for home ownership service payments if the total amount of tax arrearage for all years exceeds $2000. ERM 304. Because Claimant's outstanding taxes at the time she applied for SER assistance on November 3, 2011, exceeded $2000, which Claimant acknowledged, the Department acted in accordance with Department policy when it denied Claimant's November 3, 2011, application.

December 28, 2011 SER Application

Claimant testified that she made some payments, bringing her outstanding taxes to less than $2000, and reapplied for SER assistance with her taxes on December 28, 2011. The Department testified that a SER Decision Notice was sent with respect to that application on January 3, 2012, denying Claimant's application on the basis that Claimant was not the owner or purchaser of the property at issue. On the record, the Department acknowledged that the reason indicated on the notice was erroneous.

The Department is required to complete a SER budget for each SER application. ERM 103. No evidence was presented that a SER budget was completed in connection with Claimant's December 28, 2011, SER application. Because the Department did not provide a valid reason for denying Claimant's application and did not establish that it had prepared a budget in connection with the application, the Department did not act in accordance with Department policy in denying Claimant's December 28, 2011, SER application. Because Claimant may be able to establish income for the 30 day countable period beginning on the date this SER application was filed with the Department, Claimant may be able to establish that her housing is affordable, in contrast to her situation at the time she filed the January 12, 2012, SER application, as discussed below. Thus, the Department's failure to properly process the December 28, 2011, SER application was not a harmless error.

January 12, 2012 SER Application
After receiving the January 3, 2012, SER Decision Notice, Claimant reapplied for SER assistance with her taxes on January 12, 2012. The Department denied this application in a January 19, 2012, SER Decision Notice on the basis that Claimant's housing was not affordable.

In order to be eligible for home ownership service payments, the ongoing cost of maintaining the home must be affordable to the SER group. ERM 304. Housing is affordable if the total housing obligation does not exceed 75% of the group's total net countable income. ERM 207. In determining Claimant's total net countable income, the Department must consider the income that Claimant will receive or is expected to receive during the 30 day countable period beginning on the date the SER application is received by the local office. ERM 206.

In this case, Claimant had no total net countable income for the thirty day period beginning on the January 12, 2012, SER application date. The Department testified, and Claimant verified, that Claimant's only source of income, unemployment benefits, ended on December 31, 2011. Because Claimant had no income for the period between January 12, 2012, and February 10, 2012, the maximum total housing obligation she could have and still be eligible for SER home ownership services was $0. Under ERM 207, the Department is required to deny any SER application where the client does not have sufficient income to meet the total housing obligation and the client's housing fails the affordability test. Because Claimant's property tax obligation exceeded $0, the Department acted in accordance with Department policy when it denied Claimant's January 12, 2012, SER application.

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 Claimant's November 3, 2011, and January 12, 2012, SER applications for assistance with shelter emergency.
☒ improperly denied Claimant's December 28, 2011, 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 when it denied Claimant's November 3, 2011, and January 12, 2012, SER applications.
☒ did not act properly when it denied Claimant's December 28, 2011, SER application for assistance with shelter emergency.

Accordingly, for the reasons stated above and on the record, the Department's decision is ☐AFFIRMED ☐REVERSED ☒AFFIRMED IN PART with respect to the denial of the November 3, 2011 and January 12, 2012 SER applications and REVERSED IN PART with respect to the denial of the December 28, 2011 SER application.

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

1. Reregister Claimant's December 28, 2011, SER application for assistance with property taxes;
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: June 15, 2012

Date Mailed: June 15, 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: [redacted]