

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201248637
Issue No.: 5026
Case No.: [REDACTED]
Hearing Date: August 27, 2012
County: Wayne DHS (15)

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 August 27, 2012 from Detroit, Michigan. Participants included the above named claimant; [REDACTED] appeared as a witness for Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for State Emergency Relief based on an alleged failure by Claimant to participate with a Michigan Works! Agency (MWA).

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 3/29/12, Claimant applied for SER assistance for rent.
2. The SER application was related to a special program tied to the termination of Family Independence Program (FIP) benefits based on time limits.
3. As part of the verification process, Claimant submitted four tickets from MWA.
4. The tickets verified Claimant's participation with MWA- two times for the week of 3/19/12 and twice for the week of 3/26/12.

5. On 4/13/12, DHS denied Claimant's application because Claimant failed to verify MWA attendance for each week in 3/2012.
6. On 4/23/12, Claimant requested a hearing to dispute the SER denial, and an issue concerning Child Development and Care (CDC) benefit eligibility.
7. The CDC benefit issue was addressed by an administrative hearing held on 7/24/12 and administrative decision issued on 8/3/12.

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 final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the 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 concerned a rent arrearage.

The present case concerned an SER application for rent assistance. Typically, SER applications are evaluated under the requirements set forth by ERM. Claimant's SER application was specifically tied to a special program set up for clients that lost FIP benefit eligibility after meeting lifetime limits on receiving the benefits. The program is "special" in that DHS regulations do not cite the requirements for the program.

DHS testified that one of the requirements for the program is that a client attend MWA at least once per week during a calendar month and provide proof of the attendance through tickets. It was not disputed that Claimant presented four tickets to DHS. It was also not disputed that DHS denied Claimant's SER because Claimant verified that she attended MWA four times in a two week period rather than once for each week in 3/2012.

The major problem with the DHS case presentation is that DHS furnished no written record of the program's eligibility requirements. Had DHS furnished a list of eligibility requirements and verified that Claimant received the list, the DHS case would be much more compelling.

Despite the lack of written policy requirements, it is presumed there was some verbal communication between Claimant and DHS because Claimant seemed to be aware of a weekly requirement to attend MWA. Despite what apparently was stated by DHS, Claimant stated that she was told by the MWA that four times per month of attendance is sufficient to meet the requirements for the special SER program, even if the

attendance was not once per week. Accepting Claimant's testimony would require believing that DHS and MWA were not on the same page concerning the requirements for the special SER program. When considering the lack of written evidence and policy in the present case, it would be easy to accept a lack of communication between MWA and DHS. By the same token, Claimant also presented no evidence to verify what she was allegedly told by MWA.

Claimant's presentation of four tickets to DHS is mildly supportive of a finding that Claimant believed that she was not required to attend MWA on a weekly basis. Claimant's belief is not verification that she was told by MWA that weekly attendance was not required, but it makes it more likely that such a statement occurred.

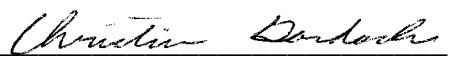
Based on the presented evidence, it is more likely than not that MWA advised Claimant that four occasions of MWA attendance per month was sufficient to meet the SER eligibility requirements. Based on the MWA statement, DHS cannot hold Claimant's failure to attend MWA four times over four weeks against her in the SER denial. Accordingly, the DHS SER denial is found to be improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's SER application seeking rent assistance. It is ordered that DHS:

- (1) reinstate Claimant's SER application dated 3/29/12;
- (2) process Claimant's application subject to the administrative finding that Claimant met the MWA attendance requirements by the presentation of four tickets from 3/2012.

The actions taken by DHS are REVERSED.


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

Date Signed: August 29, 2012

Date Mailed: August 29, 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. (60 days for FAP cases).

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:

