

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

IN THE MATTER OF:



Reg. No.: 201218435
Issue No.: 5026
Case No.: [REDACTED]
Hearing Date: April 26, 2012
County: Wayne (41)

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 April 26, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] Family Independence 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 2, 2011 and November 18, 2011, Claimant applied for SER assistance with shelter emergency.
2. On November 3, 2011, and November 18, 2011, the Department sent notice of the application denial to Claimant.
3. On November 28, 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, on November 2, 2011 and November 18, 2011, Claimant applied for SER assistance with payment of her outstanding rent. The November 2, 2011, application was denied because there was no emergency. Because Claimant had not submitted a summons and complaint seeking Claimant's eviction from her home, the Department acted in accordance with Department policy when it denied the November 2, 2011 SER application. ERM 303.

The November 18, 2011 SER Decision Notice denied Claimant's November 18, 2011 SER 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, which include payment of rent arrearage. ERM 207; ERM 303. In order to determine whether the Claimant's housing is affordable, the Department must multiply the group's total net countable income by seventy-five percent. ERM 207. The result is the maximum total rent the Claimant can have and be eligible to receive SER rent assistance. ERM 207. An SER application must be denied if the group does not have sufficient income to meet the total housing obligation. ERM 207.

In determining Claimant's total net countable income, the Department must consider the Claimant's gross earnings from employment 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, in calculating Claimant's total net countable income, the Department testified that it relied on paystubs provided by Claimant for October 21, 2011 showing gross pay of \$220, for October 28, 2011 showing gross pay of \$184, for November 4, 2011 showing gross pay of \$202, and for November 11, 2011 showing gross pay of \$200. The Department did not present evidence that Claimant was entitled to a deduction for allowable expenses of employment from these gross amounts. ERM 206.

Based on the sum of the gross income indicated on the paystubs relied upon by the Department, Claimant's total income expected to be received during the 30 day countable period beginning November 18, 2011 was \$806. Seventy-five percent of Claimant's total income was \$604.50. The evidence at the hearing established that Claimant's total monthly housing obligation was \$519. Because \$604.50 was more than Claimant's monthly housing obligation of \$519, Claimant's housing was affordable. Thus, the Department did not act in accordance with Department policy when it concluded that Claimant's housing was not affordable.

At the hearing, the Department testified that Claimant's November 18, 2011 SER application for shelter assistance was also denied because Claimant had failed to pay

her September 2011 and October 2011 rent, thereby creating a client-caused emergency. SER assistance is not available to groups who failed to use their available money to prevent a shelter emergency. ERM 204. A client-caused emergency is when the SER group fails to pay required payments for the six-month period prior to the month of application. ERM 204. Required payments are actual shelter costs. ERM 204. However, good cause may exist as a basis for an applicant's failure to prevent an emergency if the SER group's net countable income from all sources during each month the group failed to pay their obligations was less than the amount shown on the good cause table in ERM 204 based on the SER group size or if the emergency resulted from unexpected expenses related to maintaining or securing employment. ERM 204.

In this case, the Department did not present any evidence showing that it considered Claimant's income during September 2011 and October 2011 to determine whether Claimant had good cause for her failure to pay her rent during those months. Thus, the Department did not act in accordance with Department policy in denying Claimant's SER application for shelter assistance on the basis that there was a client-caused emergency.

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. Reregister Claimant's November 18, 2011 SER application;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision to determine Claimant's eligibility for SER benefits;
3. Issue supplements for SER benefits Claimant is eligible to receive but did not for November 18, 2011, ongoing; and

4. 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: April 30, 2012

Date Mailed: April 30, 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/cl

cc:

