

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

IN THE MATTER OF:



Reg. No.: 201247378
Issue No.: 5025
Case No.: [REDACTED]
Hearing Date: August 23, 2012
County: Wayne (43)

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 August 23, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [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 April 3, 2012, Claimant applied for SER assistance with shelter emergency.
2. On April 6, 2012, the Department sent notice of the application denial to Claimant.
3. On April 16, 2012, 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 Department of Human Services State Emergency Relief Manual (ERM).

Additionally, home ownership services are available to save a home threatened with loss due to tax foreclosure or sale. ERM 304 (June 1, 2010), p 1. In this case, Claimant applied on April 3, 2012 for SER assistance with a tax foreclosure and requested \$2000 in assistance. In an April 6, 2012 SER Decision Notice, the Department denied Claimant's application 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, p 1; ERM 207 (April 1, 2011), p 1. Housing is affordable if the total housing obligation does not exceed 75% of the group's total net countable income. ERM 207, p 1.

In this case, the Department presented a SER affordability budget with \$0 reflected on each item. At the hearing, the Department testified that Claimant had unearned income of \$537 per month (although Claimant testified that she received biweekly payments of \$303, resulting in greater unearned income than identified by the Department). The budget also indicated that Claimant's tax expenses were \$0 even though Claimant acknowledged that she had ongoing property tax expenses. Because the Department's budget did not show the monthly amount of Claimant's ongoing housing expenses and the monthly amount of her total net countable income, the Department failed to satisfy its burden of showing that Claimant's housing was unaffordable. As such, it did not act in accordance with Department policy when it denied Claimant's request for assistance with taxes on the basis that her housing was not affordable.

It should be noted that for cases involving SER assistance with tax arrearages, the total amount of tax arrearage for all years may not exceed \$2,000. ERM 304, p 4. In this case, Claimant requested \$2000, the amount outstanding for her 2008 property taxes, in assistance in her April 3, 2012 SER application. While ERM 304 was amended on August 1, 2012 to provide that "[t]he total tax arrearage amount is the total for every year combined, not just for the tax years which assistance is being requested" [ERM 304 (August 1, 2012), p 4], this limitation was not applicable at the time of Claimant's application on April 3, 2012.

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.

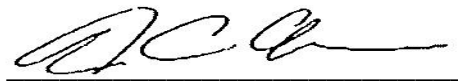
DECISION AND ORDER

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 April 3, 2012, SER application;
2. Reprocess the application in accordance with Department policy and consistent with this hearing decision;
3. Issue payments for any SER benefits due and owing on Claimant's behalf from April 3, 2012, 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: 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.

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.

201247378/ACE

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/hw

cc:

