

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

IN THE MATTER OF:



Reg. No.: 2013-39374
Issue No.: 5008
Case No.: [REDACTED]
Hearing Date: May 8, 2013
County: Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 May 8, 2013, from Detroit, Michigan. Claimant appeared and testified. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On March 18, 2013, Claimant applied for SER assistance.
2. On an unverified date, the Department denied Claimant's March 18, 2013, SER application for failure to provide income verifications.
3. On March 26, 2013, Claimant submitted a second application for SER assistance.
4. On March 28, 2013, the Department sent Claimant an Application Notice informing her that her application for SER was denied due to a failure to provide the Department with information needed to determine eligibility. Exhibit 4.

5. On April 1, 2013, the Department received Claimant's hearing request disputing the actions of the Department.

CONCLUSIONS OF LAW

Department policies are found in the Department of Human Services Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), Reference Tables Manual (RFT), and State Emergency Relief Manual (ERM).

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 Mich Admin Code, R 400.7001 through R 400.7049.

In this case, Claimant requested a hearing regarding the denial of her SER request for assistance. Claimant submitted an application for SER on March 18, 2013. On her application, Claimant indicated that she is employed by the [REDACTED] and is paid every two weeks. Claimant provided the Department with pay stubs dated February 13, 2013, and March 13, 2013. Exhibit 2. The countable income period for the SER budget is 30 days. ERM 206 (October 2011), p. 1. The Department stated that because Claimant indicated on her application that she is paid every two weeks, Claimant should have provided more than just one pay stub for the 30 days. Although the Department testified that Claimant's SER application was denied because she did not provide income from the 30 days prior to her application; the Department did not present an SER Application Notice for Claimant's March 18, 2013, application and could not establish when the application was denied.

At the hearing, Claimant credibly testified that because she is employed by the USAR, she does not have a set work schedule and only works when she is called [REDACTED]. Claimant testified that she has the potential to get paid every two weeks; however, this all depends on the number of days she is [REDACTED] for that particular month. Claimant stated that for the month of February 2013, [REDACTED] got paid once that month. That pay stub was dated February 13, 2013, and it was provided to the Department. Claimant testified that for the month of March 2013, [REDACTED]. Claimant further stated that although the pay stub she provided which is dated March 13, 2013, does not reflect all of the days she worked, she does not have any additional pay stubs to provide the Department with, as she has not yet been paid for her March 22, 2013, work day. Per ERM 103, the client must make a reasonable effort to obtain required verifications. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, use the best available information. ERM 103 (August 2012), p. 5. Under the facts in this case, Claimant made a reasonable effort to provide the Department with the requested income verifications, as she submitted all of the pay stubs that she had received. The Department should have used the best available information and continued to process Claimant's March 18, 2013, SER application. ERM 103, p. 5. Therefore, the Department did not act in accordance with Department policy when it denied Claimant's SER application for failure to provide adequate income verifications.

Additionally, Claimant submitted a second application for SER on March 26, 2013. On March 28, 2013, the Department sent Claimant an Application Notice denying her SER application due to Claimant's failure to provide the Department with the information needed to determine eligibility. Exhibit 4. At the hearing, the Department testified that because Claimant did not complete portions of the SER application with regard to her income, the application was denied, pursuant to BAM 130 (May 2012). However, when an application is submitted containing the minimum information required to register the application but not enough information to determine eligibility, the Department must retain the application and give the client a Verification Checklist (VCL) requesting that the client contact the Department to complete the missing information, the due date for missing information and the interview date, if applicable. BAM 115 (January 2013), p. 4. The Department may not deny an incomplete application until ten calendar days from the later of either (i) the initial request in writing to the applicant to complete the application form or supply missing information or (ii) the initial scheduled interview. BAM 115, p. 5.

In this case, Claimant submitted an application that had the minimum information required to register the application. Rather than the Department sending Claimant a VCL requesting verification of missing information and allowing Claimant ten calendar days to provide it, the Department improperly denied her application only two days after it was submitted. BAM 115, pp. 4-5. At the hearing, the Department did not present any evidence to establish that it sent Claimant a VCL and that Claimant did not respond within the required time. Instead, the Department testified that because there were incomplete portions, Claimant's application was denied. Therefore, the Department did not act in accordance with Department policy when it denied Claimant's March 26, 2013, SER application.


DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for reasons stated on the record, finds that the Department did not act in accordance with Department policy when it denied Claimant's March 18, 2013, and March 26, 2013, applications for SER. Accordingly, the Department's decisions are REVERSED.

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 March 18, 2013, and March 26, 2013, applications for SER;
2. Begin reprocessing both applications in accordance with Department policy and consistent with this Hearing Decision; and

3. Issue new SER Decision Notices for each application.


Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 15, 2013

Date Mailed: May 16, 2013

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

ZB/pf

cc:

