

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201322903
Issue No.: 5008
Case No.: [REDACTED]
Hearing Date: May 29, 2013
County: Branch

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 29, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistance Payments Supervisor).

ISSUE

Did the Department properly deny Claimant's application for State Emergency Relief (SER) benefits due to a failure to comply with the verification requirements?

FINDINGS OF FACT

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

1. Claimant applied for SER on October 22, 2012.
2. The Department mailed Claimant with an SER Verification Checklist (DHS-3503-SER) on October 23, 2012.
3. Claimant was required to submit the requested verification by October 30, 2012.
4. On October 31, 2012, the Department mailed Claimant a State Emergency Relief Decision Notice (DHS-1419) which denied Claimant's application for SER for failure to submit verification in a timely manner.
5. On December 18, 2012, Claimant filed a hearing request, protesting the denial.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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 1993 AACS R 400.7001-400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Clients must be informed of all verifications that are required and where to return verifications. ERM 103. The due date is **eight calendar days** beginning with the date of application. ERM 103. If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. ERM 103. This does not change the standard of promptness date. ERM 103.

The Department uses the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103. The client must make a reasonable effort to obtain required verifications. ERM 103. The specialist must assist if the applicant needs and requests help. ERM 103. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, the Department uses the best available information. ERM 103. If no evidence is available, the specialist must use their best judgment. ERM 103.

Here, the Department submits that Claimant failed to comply with ERM 103 verification requirements. Specifically, the Department contends that the verification checklist sought verification of the need for SER relocation assistance and account information. The October 23, 2012 verification checklist was due by October 30, 2012. The Department specialist who attended the hearing testified that Claimant provided bank statement verifications which were illegible. The Department specialist also testified that he and Claimant exchanged emails regarding the application and the verifications. Claimant, on the other hand, contends that she returned an eviction notice to the local office on October 19, 2012. Claimant then testified that she emailed bank statements to the Department specialist on October 23, 2012 and then again on October 25, 2012. Claimant then stated that she continued to receive emails from the Department specialist as late as November 27, 2012 regarding the verifications. Claimant questioned why the Department would continue to communicate with her about the verifications in November, if the SER application had already been denied.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity

of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department, for reasons uncertain, failed to include copies of the purported illegible bank statement Claimant provided on October 19, 2012 and failed to submit copies of the emails between the parties. Both parties acknowledged that these documents existed at the time of the hearing. These documents are relevant and would have assisted the Administrative Law Judge in making a decision. Without these documents, the Administrative Law Judge cannot definitively ascertain the nature of the conversations between the parties while the SER application was pending. In this matter, the Administrative Law Judge does not believe that Claimant was inattentive and failed to take any steps in an attempt to provide the requested verifications. Although Claimant did not provide any documentation in support of her case, the burden is on the Department to go forward with evidence to show that it complied with the applicable policies. The Department provided the verification checklist and the decision notice, but did not include additional relevant documents. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the Department has not provided sufficient evidence to justify the denial of Claimant's SER application based upon failure to timely provide verifications.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department improperly denied Claimant's SER application based on failure to provide requested verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not act properly.

Accordingly, the Department's decision is **REVERSED**.

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

- Initiate a reprocess and re-register of Claimant's SER application dated October 22, 2012.
- If necessary, the Department may provide Claimant with an additional verification checklist.
- To the extent required by policy, the Department shall provide Claimant with retroactive and/or supplemental benefits.

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 3, 2013

Date Mailed: June 3, 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 mailing 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.

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