

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20136086
Issue No.: 5032
Case No.: [REDACTED]
Hearing Date: April 2, 2013
County: Kent County DHS

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 April 2, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Supervisor).

ISSUE

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

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 September 24, 2012, Claimant applied for SER assistance with shelter emergency. Specifically, Claimant sought rent to relocate, security deposit and moving expenses.
2. On October 3, 2012, the Department sent notice of the application denial to Claimant.
3. On October 10, 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, 1993 AACS R 400.7001-400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

The SER program is designed to prevent serious harm to individuals and families. ERM 101. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101. SER also assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303.

SER applicants must meet the following requirements: (1) complete the application process; (2) meet financial and non-financial requirements; (3) have an emergency which threatens health or safety and can be resolved through issuance of SER; (4) take action within their ability to help themselves (for example, obtain potential resources and/or apply for assistance); (5) not have caused the emergency (See ERM 204) and (6) cooperate in providing information about income, assets, living arrangements, and other persons living in the home. ERM 101. The Department will deny SER services for applicants who fail to meet any of the above requirements. ERM 101.

Housing affordability is a condition of eligibility for SER and applies only to Relocation Services (ERM 303) and Home Ownership Services and Home Repairs (ERM 304). Housing affordability does not apply to other SER services. ERM 207.

The Department will authorize relocation services only if one of the following circumstances exists and all other SER criteria are met. ERM 303. The SER group is "homeless." The definition of homeless includes the following: (1) persons living in an emergency shelter or motel, in HUD-funded transitional housing for homeless persons who originally came from the street, in a car on the street or in a place unfit for human habitation and there is no housing they can return to; (2) **groups who voluntarily left their home, but can return without a threat to their health or safety, are not homeless** (3) persons exiting jail, prison, a juvenile facility, a hospital, a medical setting, foster care, a substance abuse facility or a mental health treatment setting with no plan or resources for housing and no housing to return to; (4) persons who meet the eligibility requirements for one of the following homeless assistance programs: (a) Homeless Assistance Recovery Program (HARP); (b) Transitional Supportive Housing Leasing Assistance Program (TSHLAP); (c) Transition In Place Leasing Assistance Program (TIPLAP); (d) Rapid Re-Housing Leasing Assistance; (e) Temporary Basic Rental Assistance (TBRA) funded by MSHDA. ERM 303.

A person/family eligible for one of the above homeless assistance programs may be living with others temporarily, may no longer be in a shelter or may be in housing with the grant paying their rent. ERM 303. These are only temporary programs until a permanent housing voucher becomes available or the group is able to pay their own rent, whichever comes before 24 months. ERM 303.

A HUD transitional facility refers only to housing that has been acknowledged by HUD for assisting homeless persons who originally came from the street or an emergency shelter who need permanent housing but are waiting for placement. ERM 303. The group may be in a transitional facility for up to 24 months. ERM 303. A person eligible for HUD-funded permanent transitional housing is also considered homeless. ERM 303.

A group living with friends or relatives is not homeless, even if the arrangement is temporary unless one of the situations below exists: (1) the group is living temporarily with other persons following a fire or natural disaster that occurred not more than 60 days before the date the group files an application for SER; (2) the group is living with other persons to escape a domestic violence situation; or (3) the group meets eligibility criteria for one of the homeless assistance programs listed above. ERM 303.

Homelessness can exist based on a legal notice. A court summons, order, or judgment was issued which will result in the SER group becoming homeless. ERM 303.

A DHS services worker or DHS specialist, with supervisory approval, may determine the family must be relocated from unsafe housing for the protection of the children. ERM 303.

For verification of homelessness, the following documents are required for eligibility: (1) eviction, judgment, or court order from last residence; (2) group's statement that they are living with others to escape domestic violence; (3) group's statement that they are sleeping in a car, or on the street and there is no housing they can return to; (4) fire department report, newspaper article, etc. verifying a fire or natural disaster; (5) statement from the releasing facility for persons exiting jail, prison, a juvenile facility, a hospital, a medical setting, foster care, a substance abuse facility or a mental health treatment setting indicating there is no available housing and the person has no residence to return to; or (6) a signed and dated statement on official letterhead of the agency or service provider, which identifies the persons and the homeless assistance program they are eligible for. ERM 303.

Here, Claimant requested a hearing after the Department denied her September 24, 2012 SER application for relocation services. Claimant stated that she felt Flint was too dangerous and she wanted to relocate to Grand Rapids. During the hearing, Claimant testified that she relocated to Grand Rapids and stayed with her aunt initially but then was forced to move to the Degage Ministries homeless shelter also located in Grand Rapids. Claimant also stated that her son remained in Flint with his father and planned to move to Grand Rapids with her once she obtained an apartment. Claimant did not provide any exhibits.

The Department, on the other hand, indicated that the Department denied Claimant's SER application because Claimant did not meet the definition of homeless at the time of application. The SER decision notice indicated that Claimant's request for relocation services was denied because she did not have a court-ordered eviction notice under

ERM 303. The Department provided as exhibits the SER application, Claimant's lease agreement, SER decision notice and Bridges notice reasons/eligibility summary. During the hearing, the Department representative noted that Claimant was not considered "homeless" under ERM 303.

This Administrative Law Judge has reviewed all of the evidence in this case. On the SER assistance application, Claimant indicated that she requested assistance with relocation expenses from Flint to Grand Rapids. She indicated that the Flint area was too dangerous for her son and that she found an apartment and had a job in Grand Rapids. At the time of application; however, Claimant's lease in Flint did not expire until January, 2013. Claimant included a lease agreement effective September 24, 2012 at 1719 Madison Avenue SE, Apt 1A, in Grand Rapids. This raised a credibility issue for the Administrative Law Judge to resolve.

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).

Claimant's credibility is at issue here because she indicated on her application that she had an apartment in Grand Rapids but during the hearing she stated that she did not have an apartment but lived in a homeless shelter. At the time of the hearing, the Administrative Law Judge did not have a copy of the lease as it provided as an exhibit after the hearing. However, Claimant did not sufficiently explain the Grand Rapids lease and why she did not actually obtain an apartment in Grand Rapids.

This Administrative Law Judge finds that Claimant has not shown that she meets the definition of homeless under ERM 303. This is based, in part, on her lack of credibility. She testified that she left Flint because her son was a victim of violence and that her house had been burglarized, but during the hearing Claimant, who had relocated to Grand Rapids, stated that her son remained in Flint. Claimant's explanation that her son was waiting for her to get an apartment does not make sense. If allowing her son to remain in Flint was too dangerous, Claimant would not have permitted her son to remain there. Thus, this Administrative Law Judge believes that Claimant voluntarily left their home, but can return without a threat to their health or safety. See ERM 303. At the time of application, Claimant was not residing at the homeless shelter in Grand Rapids; she was either in an apartment (per her application) or was staying with her aunt. Either way, she was not "homeless." This Administrative Law Judge also agrees that Claimant's failure to provide a court-ordered eviction notice is dispositive.

Based upon the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly denied Claimant's SER application for assistance with relocation services.

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.

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

IT IS SO ORDERED.

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

Date Signed: April 8, 2013

Date Mailed: April 9, 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.

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

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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

CAP/cr

cc:

