

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201341480
Issue No: 5026
Case No: [REDACTED]
Hearing Date: July 24, 2013
Newaygo County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on April 12, 2013. After due notice, a telephone hearing was held on July 24, 2013 at which Claimant personally appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's Newaygo County office.

ISSUE

Whether the department properly determined Claimant's eligibility for the State Emergency Relief (SER) program?

FINDINGS OF FACT

Based on the competent, material, and substantial evidence on the whole record, the Administrative Law Judge finds as relevant fact:

1. On April 2, 2013, Claimant applied for SER assistance with rent. In her application, she indicated that she has no income. (Department Exhibits 2-7)
2. On April 2, 2013, the department processed Claimant's application and mailed Claimant a State Emergency Relief Decision Notice (DHS-1419), informing Claimant that her request for SER assistance with rent had been denied for the reason that her housing was unaffordable. (Department Exhibit 1)
3. On April 13, 2013, Claimant filed a request for hearing contesting the department's determination of her SER eligibility. (Request for Hearing)

CONCLUSIONS OF LAW

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. Department of Human Services Bridges Administrative Manual (BAM) 600 (2011), p. 1. The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in sections 400.901 to 400.951 of the Michigan Administrative Code (Mich Admin Code). An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code R 400.903(1).

The State Emergency Relief (SER) program was established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (ERM).

SER helps to, among other things, assist individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303. The amount of the relocation funds authorized by the department must resolve the SER group's shelter emergency and may include a combination of any of the following services: first month's rent; rent arrearage; security deposit, and moving expenses. ERM 303.

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, Item 207, p. 1. Department policy defines "total housing obligation" to mean the total amount the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. Renters can have a higher "total housing obligation" if heat, electricity and/or water/cooking gas are included. ERM 207, p. 1.

The department may only authorize SER for services if the SER group has sufficient income to meet ongoing housing expenses. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. Accordingly, the department must deny SER if the group does not have sufficient income to meet their total housing obligation. The total housing obligation cannot exceed 75% of the group's total net countable income. ERM, Item 207, p. 1.

In this case, Claimant acknowledged at the July 24, 2013 hearing that, at the time she applied for SER assistance with her rent, she had no income and was therefore unable to afford her monthly rent obligation going forward. Claimant further testified that she still remains unemployed and without income and was evicted from her apartment on April 18, 2013.

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). Moreover, 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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds, based on the competent, material, and substantial evidence presented during the hearing, the department properly determined Claimant's eligibility for SER assistance and properly denied Claimant's April 2, 2013 application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined Claimant's eligibility for SER assistance and properly denied Claimant's April 2, 2013 application. Accordingly, the department's actions in this regard are **UPHELD**.

It is SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 25, 2013

Date Mailed: July 30, 2013

NOTICE: Michigan Administrative Hearings 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 Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

