

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

IN THE MATTER OF:



Reg. No.: 2013-37510
Issue No.: 5025
Case No.: [REDACTED]
Hearing Date: August 7, 2013
County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. 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 with property taxes?

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 March 4, 2013, Claimant applied for SER assistance with property taxes.
2. On March 12, 2013, the Department sent notice of the application denial to Claimant.
3. On March 26, 2013, 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 State Emergency Relief Manual (ERM).

At the hearing, Claimant argued that the Department's denial was based on her income, but there was no documentation of Claimant's income provided by the Department.

Here, the Department failed to provide documentation of Claimant's income upon which it based its decision and, therefore, failed to support its case for denial based on the Claimant's income.

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). In evaluating the credibility and weight to be given the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter. *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

In this case, the Department did not present sufficient credible testimony and documentary evidence at the hearing establishing that the Claimant's shelter was not affordable. ERM 207 (March 2013).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds the Department has not met its burden of proving by a preponderance of the evidence that the Claimant's income was such that her shelter was not affordable.

Accordingly, the Administrative Law Judge finds that, based on the competent, material, and substantial evidence presented during the hearing, the Department failed to support its claim with appropriate evidence.

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 property taxes.

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 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. Initiate recalculation of Claimant's shelter affordability based on Claimant's income on March 4, 2013.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 23, 2013

Date Mailed: October 23, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

2013-37510/MJB

MJB/pf

cc:

