

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201312563
Issue No.: 5008
Case No.: [REDACTED]
Hearing Date: April 10, 2013
County: Kalamazoo

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 10, 2013, from Lansing, Michigan. Participants on behalf of Claimant include d [REDACTED] [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] [REDACTED].

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with energy or utility service(s)?

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 October 26, 2012, Claimant applied for SER assistance with energy or utility service.
2. On November 2, 2012, the Department sent notice of the application denial to Claimant.
3. On November 7, 2012, the Department received Claimant's hearing request, protesting the SER denial.

CONCLUSIONS OF LAW

The SER program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by 1999 AC, R 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms. Clients must completely and truthfully answer all questions on forms and in interviews.

The client might be unable to answer a question about himself or another person whose circumstances must be known. Allow the client at least 10 days (or other timeframe specified in policy) to obtain the needed information.

Furthermore, in determining SER eligibility, the Department must verify eligibility for the group as a whole. This includes verifying income, assets and potential resources for all of the group members. **A single SER group consists of persons who occupy the same home.** A home is the place where the members of the SER group keep their personal belongings and sleep.

Testimony and other evidence must be weighed and considered according to its reasonableness.¹ Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.² In evaluating the credibility and weight to be given to 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.³

I have carefully considered and weighed the testimony and other evidence in the record and find the Department's witness to be more credible than the Claimant as the Department witness had a clearer grasp of the dates, times and events in question. Furthermore, I found the Claimant's argument and recollection of facts unpersuasive as the Claimant was argumentative and left the hearing before the hearing had concluded. Furthermore, the Claimant's testimony was inconsistent with the Claimant's most recent application for assistance (FAP application). The Claimant testified his circumstances have not changed in the past 6 years yet the Claimant indicated in the FAP application that he was homeless as recently as August 1, 2012.

Based upon the testimony and exhibits provided, I find that more likely than not, the Claimant was uncooperative with the Department when the Department questioned the Claimant's group size and income variables. Because the Claimant was uncooperative, the Department acted appropriately in denying the Claimant's SER application.

¹ *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).

² *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

³ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law the Department did act appropriately.

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



Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: April 11, 2013

Date Mailed: April 11, 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

2013-12563/CAA

CAA/las

cc:

