

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

IN THE MATTER OF:



Reg. No.: 2013-16260
Issue No.: 5008
Case No.:
Hearing Date: May 1, 2013
County: Oakland County (63-02)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 1, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included .

ISSUE

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

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 June 12, 2012, Claimant was placed in non-cooperation status with the Office of Child Support (OCS). Exhibit 1.
2. On November 13, 2012, Claimant applied for SER assistance with energy service and water or sewage.
3. On November 14, 2012, the Department sent notice of the application denial to Claimant due to non-cooperation with child support requirements. Exhibit 1.
4. On November 26, 2012, the Department received Claimant's hearing request, protesting the SER denial. Exhibit 1.

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 Department of Human Services State Emergency Relief Manual (ERM).

On June 12, 2012, Claimant was placed in non-cooperation status with OCS. Exhibit 1. On November 13, 2012, Claimant applied for SER assistance with energy service and water or sewage. On November 14, 2012, the Department sent notice to Claimant of the application denial due to noncooperation with child support requirements. Exhibit 1. Groups that are non-cooperative with the OCS are also ineligible for SER. ERM 203 (April 2011), p. 1. SER ineligibility continues as long as the group member fails or refuses to pursue potential resources. ERM 203, p. 2. Sanctioned groups that are able to comply are ineligible for SER until they comply. ERM 203, p. 2.

At the hearing, Claimant credibly testified that she had no knowledge of the June 12, 2012, non-cooperation status with OCS. Claimant testified that OCS contacted her back in summer of 2008 to provide information regarding the father, and Claimant testified that she did respond to OCS's request for that information. Claimant testified that since that time period she has never received any documents or contact regarding any OCS issues until the SER denial letter. Claimant testified that she has been receiving child support from the biological father since 2004.

Furthermore, the Department did present as evidence a document showing the non-cooperation status. Exhibit 1. A review of this document does indicate the custodial parent's name. It is unclear what the non-cooperation status is with the Claimant. OCS was not present for the hearing to discuss the non-cooperation status.

Based on the foregoing information and evidence, the Department failed to satisfy its burden showing that it acted in accordance with Department policy when it denied Claimant's SER application. Claimant had no knowledge of the non-cooperation status on June 12, 2012, nor did she receive any communication from OCS regarding this non-cooperation issue. Moreover, Claimant's testimony indicates that she cooperated with the OCS back in summer of 2008, and she has not received any such communication from OCS since that time period. Additionally, OCS was not present at the hearing to rebut Claimant's testimony nor was it able to explain why Claimant is in non-cooperation status. Thus, the Department improperly denied Claimant's SER application in accordance with Department policy.

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 improperly denied Claimant's SER application.


DECISION AND ORDER

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

Accordingly, the Department's AMP FIP FAP MA SDA SER decision is AFFIRMED REVERSED for the reasons stated above and 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. Remove Claimant's non-cooperation status with the Office of Child Support;
2. Reregister and initiate processing of the SER application with the effective date of November 13, 2012;
3. Issue supplements to Claimant for any SER benefits she was eligible to receive from November 13, 2012, application; and
4. Notify Claimant in writing of its decision in accordance with Department policy;


Eric Feldman
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 2, 2013

Date Mailed: May 2, 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. (60 days for FAP cases)

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:

2013-16260/EJF

- 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

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cc:

