

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201326912
Issue No: 5020
Case No: [REDACTED]
Hearing Date: February 27, 2013
Muskegon 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 January 22, 2013. After due notice, a telephone hearing was held on February 27, 2013 at which Claimant personally appeared and provided testimony. The department was represented by [REDACTED], an assistance payments supervisor with the department's Muskegon 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 December 19, 2012 and December 27, 2012, Claimant applied for SER assistance with rent in the amount of \$ [REDACTED] and a security deposit in the amount of \$ [REDACTED]. In support of her December 27, 2012 application, Claimant indicated that she was currently homeless and she submitted the following: (i) a November 21, 2012 Order of Eviction, ordering Claimant to vacate the premises no later than November 23, 2012; (ii) a Relocation Proposal indicating Claimant's proposed relocation address at [REDACTED] and total amount of \$ [REDACTED] needed for Claimant's housing expenses for January 2013; and (iii) a December 3, 2012 statement from [REDACTED] indicating that Claimant was denied her shelter request because she did not meet the shelter's domestic violence criteria. (Department Exhibits A, C, D, E, see also Department Hearing Summary)

2. On January 11, 2013, Claimant reported to her case specialist that she had paid her landlord the required security deposit on the amount of \$ [REDACTED] and moved into her new housing at [REDACTED]. (Department Exhibit G)
3. On January 11, 2013, the department issued Claimant a State Emergency Relief Decision Notice (DHS-1419), informing Claimant that her request for SER assistance with relocation expenses in the amount of \$ [REDACTED] had been denied for the reason that her emergency had been resolved. (Department Exhibit F)
4. On August 31, 2012, Claimant filed a request for hearing contesting the department's determination of her SER eligibility. (Request for Hearing)

CONCLUSIONS OF LAW

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by the Mich Admin Code, R 400.901 through R 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1). Indeed, an applicant or recipient holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p 1.

SER is established by 2004 PA 344. The program is administered by the Department under MCL 400.10, *et seq.*, and by administrative rules filed with the Secretary of State on October 28, 1993, Mich Admin Code, R 400.7001 through R 400.7049. Agency policies, derived from this authority, are found in the ERM. SER attempts to prevent serious harm to individuals and families. The program assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101, p 1.

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.

The department shall authorize relocation services if the SER group is homeless and all other SER criteria have been met. ERM 303. The definition of homelessness includes:

- 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. Groups who voluntarily left their home, but can return without a threat to their health or safety, are not homeless.

- 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.
- Persons who meet the eligibility requirements for one of the following homeless assistance programs:
 - Homeless Assistance Recovery Program (HARP).
 - Transitional Supportive Housing Leasing Assistance Program (TSHLAP).
 - Transition In Place Leasing Assistance Program (TIPLAP).
 - Rapid Re-Housing Leasing Assistance.
 - Temporary Basic Rental Assistance (TBRA) funded by MSHDA. ERM 303.

Department policy further provides that persons coming from an emergency shelter or emergency motel placement should have *written verification from the emergency shelter staff or service agency responsible for placement* – and such verification must be on agency letterhead and signed and dated. ERM 303. (Emphasis added)

Department policy further provides that when relocation services are requested for a client's relocation to a new residence, the client must provide rent receipts and the shelter provider must complete a shelter verification form, verifying the date of the relocation and the amount of the shelter expense. ERM 303. Without these aforementioned verifications, the department may not authorize SER for relocation services. ERM 303.

In this case, on December 27, 2012, the department received Claimant's SER application, wherein Claimant requested relocation assistance for her rent and security deposit. In support of her application, Claimant indicated that she was homeless - however, Claimant failed to provide any verification from emergency shelter staff that was signed, dated, and on agency letterhead, indicating that she was staying in or had recently stayed in a homeless shelter. Moreover, Claimant reported to her case specialist on January 11, 2013 that she had already paid her landlord the required security deposit with her disability check received on December 28, 2013 and moved into her new residence.

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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and, based on the competent, material, and substantial evidence presented during the February 27, 2013 hearing, the Administrative Law Judge finds that because at the time the department processed Claimant's SER application, Claimant lacked verification that she was currently homeless and, by Claimant's own admission, she subsequently resolved her emergency with payment to her landlord of the required security deposit, the department correctly determined that Claimant was not eligible for SER relocation assistance according to departmental policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that Claimant was not eligible for SER relocation assistance according to departmental policy. 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: March 1, 2013

Date Mailed: March 4, 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/cr

cc:

