

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

IN THE MATTER OF:



Reg. No.: 2013-772
Issue No.: 5026
Case No.: [REDACTED]
Hearing Date: March 25, 2013
County: Macomb (50-20)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 March 25, 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 reprocess Claimant's State Emergency Relief (SER) applications?

FINDINGS OF FACT

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

1. Following a June 11, 2012, hearing, the undersigned Administrative Law Judge reversed the Department's actions concerning Claimant's SER applications for assistance with rent to prevent eviction and ordered the Department to reinstate the SER Decision Notices and reregister and reprocess a December 7, 2011, SER application.
2. In response, the Department reprocessed Claimant's SER applications and sent Claimant three notices: (i) two notices dated August 8, 2012, one for the application which requested \$1,651.10 and the other for the application that requested \$1,385.10, each denying the applications on the basis that housing was not affordable, and (ii) one notice dated July 27, 2012, for the application that requested

\$1,528.80, approving the Department's payment of \$545.30 upon Claimant's payment of \$983.50 to her landlord between August 4, 2011, and September 2, 2011.

3. On August 8, 2012, the Department issued payment of \$378.80 to Claimant's landlord after concluding that Claimant had paid \$1,150 to her landlord between August 4, 2011, and September 2, 2011.
4. On September 14, 2012, Claimant filed a request for hearing disputing the Department's actions.

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 Mich Admin Code, R 400.7001 through R 400.7049. Department policies are found in the Department of Human Services State Emergency Relief Manual (ERM).

At the hearing, Claimant testified that she had been evicted in February 2012 from the home for which she had requested SER assistance. Although she was concerned about the \$1,800 outstanding balance to her former landlord that showed up on her credit report and prevented her from obtaining new housing, the issue at the hearing is limited to whether the Department acted in accordance with Department policy in complying with the Hearing Decision issued in connection with the June 11, 2012, hearing.

The evidence in this case established that Claimant filed three SER applications in 2011 for rent assistance to avoid eviction, one in August 2011 requesting \$1,528.80, one in October 2011 requesting \$1,385.10 and one in December 2011 requesting \$1,651.10. Following the hearing held on June 11, 2012, a Hearing Decision was issued reversing the Department and ordering the Department (i) to reinstate the SER Decision Notices dated August 18, 2011; October 13, 2011; and October 23, 2011, and issue payment to Claimant's landlord in accordance with Department policy if it was able to verify that Claimant had paid the amounts she was required to pay under the Notices and (ii) to reprocess Claimant's December 7, 2011, SER application.

At the hearing, the Department testified that, upon receipt of the Hearing Decision, it reprocessed Claimant's applications and issued three SER Decision Notices: (1) one on July 27, 2012, approving Claimant's application requesting \$1,528.20 and agreeing to pay Claimant's landlord \$545.30 upon Claimant's payment of \$983.50 between August 4, 2011, and September 2, 2011; (2) one on August 8, 2012, denying Claimant's application requesting \$1,651.10 on the basis that housing was not affordable; and (3) another on August 8, 2012, denying Claimant's application requesting \$1,385.10 on the basis that housing was not affordable.

SER Application for \$1,528.20

Upon verifying that Claimant had paid her landlord \$1,150 between August 4, 2011, and September 2, 2011, the Department issued a \$378.80 payment to Claimant's landlord in connection with the July 27, 2012, application that requested assistance of \$1,528.20. The Department may authorize a SER payment only to resolve an emergency. ERM 208 (April 1, 2011), p. 1. Because Claimant had paid her landlord \$1,150 towards the \$1,528.10 owed, the remaining amount owed to landlord in this case to resolve the emergency was \$378.10. Thus, the Department acted in accordance with Department policy when it paid Claimant's landlord \$378.10 towards the \$1,528.20 requested in the August 2011 SER application.

SER Applications for \$1,385.10 and for \$1,651.10

The Department's testimony and evidence established that it denied Claimant's October 2011 and December 2011 SER applications on the basis that housing was not affordable. Housing affordability is a condition of eligibility for SER benefits for housing relocation services, which include payment of rent arrearage. ERM 207 (April 1, 2011), pp. 1-2; ERM 303. In order to determine whether the Claimant's housing is affordable, the Department must multiply the group's total net countable income by 75% if the group pays all of its utilities. ERM 207, p. 2. This percentage increases to 95% if the group is renting and the rent includes heat and water. ERM 207, pp. 2-3. The result is the maximum total rent Claimant can have and be eligible to receive SER rent assistance. ERM 207, p. 2.

In this case, Claimant credibly testified that her rent included heat and water and she paid only for her own electricity. The Department was unable to rebut this testimony. The Department established that during the 30-day periods at issue for the two applications, Claimant received biweekly income of \$328, resulting in monthly income of \$656. Thus, the maximum total rent Claimant could be responsible for and be eligible for SER rent assistance was \$623.20 (95% of \$656). Because Claimant's monthly rent of \$550 was less than \$623.20, Claimant's housing was affordable. Thus, the Department did not act in accordance with Department policy when it denied Claimant's October 2011 and December 2011 SER applications requesting \$1,385.10 and \$1,651.10, respectively, on the basis of lack of affordability.

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 reprocessed Claimant's August 2011 SER application requesting \$1,528 but improperly reprocessed Claimant's October 2011 and December 2011 SER applications requesting \$1,385.10 and \$1,651.10, respectively.

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 when reprocessed Claimant's August 2011 SER application requesting \$1528.

did not act properly when reprocessed Claimant's October 2011 and December 2011 SER applications requesting \$1,385.10 and \$1,651.10, respectively.

Accordingly, for the reasons stated on the record and above, the Department's decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to processing Claimant's August 2011 SER application AND REVERSED IN PART with respect to reprocessing Claimant's October 2011 and December 2011 SER applications.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's October 2011 and December 2011 SER applications;
2. Begin reprocessing the applications in accordance with Department policy and consistent with this Hearing Decision;
3. Begin processing for payment any SER benefits Claimant was eligible to receive but did not in accordance with Department policy; and
4. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 3, 2013

Date Mailed: April 3, 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:
 - 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

ACE/pf

cc:

