

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-22578
Issue No.: 5008
Case No.: [REDACTED]
Hearing Date: March 26, 2014
County: Washtenaw (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on March 26, 2014, from Ypsilanti, Michigan. Participants included the above-named Claimant. [REDACTED]

[REDACTED] appeared as Claimant's authorized hearing representative/legal counsel. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager. [REDACTED] of the Office of the Attorney General appeared as legal counsel for DHS.

ISSUES

The first issue is whether Claimant gave proper notice of a hearing request concerning the denial of a State Emergency Relief (SER) application.

The second issue is whether DHS properly denied Claimant's SER application due to an unaffordable rent

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 [REDACTED] Claimant submitted a SER application (Exhibit A2) to DHS.
2. Claimant's SER application requested SER assistance for first mmonth's rent and/or security deposit.

3. Claimant reported to DHS that the total rent obligation of her prospective residence was \$575/month.
4. On [REDACTED], Claimant reported to DHS that her rent portion would only be based on 30% of her income due to subsidized housing assistance.
5. On [REDACTED] DHS mailed Claimant a State Emergency Relief Decision Notice (Exhibit A1) dated 11/22/13 informing Claimant of an SER application denial due to Claimant's rent not being affordable, in part, based on a \$575/month prospective rent obligation.
6. On [REDACTED] Claimant moved in to her prospective residence without paying a security deposit to her new landlord.
7. On [REDACTED] Claimant reapplied for SER seeking assistance for payment of a security deposit for her current residence (see Exhibits 7-19; A6).
8. On [REDACTED] DHS denied Claimant's SER application due to Claimant no longer having an emergency (see Exhibits 3-6; A5).
9. On [REDACTED] Claimant requested a hearing disputing a SER denial (see Exhibits 1-2).

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 final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

Claimant requested a hearing to dispute an SER denial of relocation services. Claimant submitted a Request for Hearing to DHS on [REDACTED]. The hearing request was specifically tied to a DHS action taken on [REDACTED]. As it happened, Claimant applied for SER seeking relocation assistance at least twice in the previous three months. Claimant's legal counsel contended that Claimant intended to dispute a SER denial from [REDACTED] 3 (see Exhibit 1). It must be determined whether Claimant's hearing request provided appropriate notice of her dispute.

Claimant's hearing request did not cite any previous SER denials. Claimant could have written a brief statement explaining which DHS action was in dispute; as it happened, Claimant did not write such a clarifying statement. DHS counsel reasonably contended that Claimant's hearing request failed to give notice of a dispute concerning a SER application denial from 11/2013. This evidence is supportive in finding that Claimant failed to give DHS notice of her dispute.

Though Claimant's stated dispute somewhat surprised DHS, part of the problem was DHS-created. As it happened, Claimant's previous worker left DHS between the SER denial from 11/2013 and SER denial from 1/2014. Claimant's previous DHS worker had numerous discussions with Claimant concerning the 11/2013 SER denial. Had Claimant's specialist responded to Claimant's hearing request, it is likely that DHS would have been better prepared to address Claimant's dispute concerning a SER denial from 11/2013.

Claimant's counsel noted that Claimant requested a hearing concerning an SER application denial and that both of Claimant's SER applications concerned the same subject matter, assistance with relocation. Claimant's counsel also noted Claimant's lack of sophistication with the hearing process. Both of Claimant's legal counsel's arguments are factors supporting administrative review of Claimant's SER denial from 11/2013. It should be noted that these factors are not always persuasive to justify administrative review.

It is also relevant that the SER denial from 11/2013 is not so complex that DHS is significantly disadvantaged by a lack of advance notice of a dispute. The hearing took place within a DHS office where DHS has access to Claimant's case file and database history. DHS was given leniency during the hearing to obtain any needed documents.

Based on the presented evidence, it is found that DHS had notice of Claimant's SER dispute from 11/2013. Accordingly, the analysis may consider the correctness of the SER application denial dated [REDACTED].

Claimant testified that she has various health problems. Claimant testified that she buried three of her children. Claimant testified that a DHS representative who completed Claimant's SER application mistakenly listed information when an application was completed with DHS assistance. This portion of Claimant's testimony was utterly irrelevant in determining whether Claimant's SER application was properly denied.

It was not disputed that DHS denied Claimant's SER application dated [REDACTED] based on Claimant's rent being unaffordable. It was also not disputed that DHS determined that Claimant's rent was unaffordable based on a Claimant-reported rent obligation of \$575. Claimant's counsel contended that DHS should have determined Claimant's rent affordability based on a smaller rent obligation due to Claimant's ongoing subsidized housing benefits.

Housing affordability is a condition of eligibility for SER and applies to Relocation Services. ERM 207 (3/2013), p. 1. DHS is to authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. *Id.*

Claimant presented various Ann Arbor Housing Commission documents (Exhibits A2). One document stated "Tenants should pay 30% of income for monthly rent until HAP is received." A second document stated "I am responsible for my 30% estimated monthly calculated portion of the rent until the Ann Arbor Housing Commission notifies me of a

rent adjustment"; Claimant acknowledged her responsibility with a signature dated [REDACTED]. The documents tend to verify that Claimant's initial prospective rent portion was based on 30% of her income.

Both documents had DHS office date stamps of [REDACTED]. This tended to establish that DHS was aware of Claimant's rent obligation as of [REDACTED].

DHS responded that an estimated rent or a rent based on income is insufficient evidence of a rent obligation. DHS policy is silent on how specific a rent obligation must be. Based on Claimant's outcome in the present case, the DHS argument has some merit.

As it happened, Claimant did not become homeless despite not receiving a security deposit paid by SER funds. Claimant's AHR contended that Claimant only avoided homelessness because Claimant's landlord believed that DHS would pay Claimant's security deposit. Even if the AHR's contention was a fact, Claimant resolved her emergency without DHS' assistance and without becoming homeless. If Claimant's new landlord regrets allowing Claimant to move-in without paying a security deposit, Claimant's landlord must pursue court-ordered eviction proceedings. Claimant could still seek SER funds if her landlord pursues such proceedings. It is entirely possible that Claimant's landlord will not bother to evict Claimant. This consideration is supportive in upholding DHS' strict rent obligation requirements.

On the other hand, it is not unreasonable for DHS to accept an estimated rent in order to determine a client's SER eligibility. Having to perform a relatively simple rent calculation in is not an undue burden relative to the potential harm that clients may suffer. DHS has substantial interest in keeping clients and their families from being homeless.

Consideration was also given to SER verification requirements. The client must make a reasonable effort to obtain required verifications. ERM 103 (10/2013), p. 6. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, DHS is to use the best available information. *Id.*

Claimant appeared to do as much as she could under the constraints of her reliance on public housing subsidies. Claimant presented DHS with documentation at the time of her application verifying that her initial rent was based on 30% of her income. It is found that Claimant made reasonable efforts in verifying her rent and that DHS should have based Claimant's rent affordability based on Claimant's income because it was the best available information. Accordingly, the DHS denial of Claimant's SER was improper.

It should be noted that Claimant subsequently reapplied for SER and was properly denied by DHS because Claimant did not have a pending emergency. The DHS denial was proper based on the date of Claimant's SER application. Claimant's eventually secured housing may not be a factor upon review of Claimant's SER application dated [REDACTED] because the circumstance occurred after Claimant's application was denied.

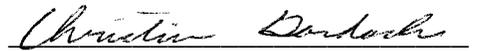
DHS is to evaluate the application dated [REDACTED] based on Claimant's circumstances from the time of application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for SER benefits. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's SER application dated [REDACTED]; and
- (2) process Claimant's application subject to the finding that DHS is to determine Claimant's rent affordability based on 30% of Claimant's reported income.

The actions taken by DHS are **REVERSED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/17/2014

Date Mailed: 4/17/2014

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

2014-8185/CG

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

CG/hw

cc:

