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

IN THE MATTER OF:

[redacted]

Reg. No.: 201430340
Issue No.: 5001
Case No.: [redacted]
Hearing Date: April 8, 2014
County: Genesee County DHS #6

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, a telephone hearing was held on April 8, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [redacted]. Participants on behalf of the Department of Human Services (Department) included [redacted].

ISSUE

Whether the Department of Human Services (Department) properly deny the Claimant's State Emergency Relief (SER) application?

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 February 28, 2014, the Claimant applied for State Emergency Relief (SER) benefits seeking assistance with a house he purchased from a land bank.

2. On February 10, 2014, the Department denied the Claimant's State Emergency Relief (SER) application.

3. The Department received the Claimant's request for a hearing on February 18, 2014, protesting the denial of his State Emergency Relief (SER) application.

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. Family Independence Agency (FIA or agency) policies are found in the State Emergency Relief Manual (ERM).

A requirement to receive State Emergency Relief (SER) benefits to prevent loss of a home if no other resources are available is that the home is the applicant's permanent, usual residence. Department of Human Services Emergency Relief Manual (ERM) 304 (October 1, 2013), pp 1-4.

State Emergency Relief (SER) benefits to restore or prevent shut off of a utility service at the applicant's current residence. Department of Human Services Emergency Relief Manual (ERM) 302 (October 1, 2013), pp 1-4.

On February 28, 2014, the Department received the Claimant's State Emergency Relief (SER) application requesting assistance with a home he had purchased from a land bank. Based on information provided by the Claimant, the Department determined that the Claimant was not using the home as his permanent and usual residence.

The Claimant testified that despite the fact that the home does not have running water or utilities, that he is capable of living in the home.

The Department provided information showing that the Claimant's current residence is another home adjacent to the home listed on this State Emergency Relief (SER) application. The address at this other home matches the address on the Claimant's driver's license.

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).

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Claimant did not request State Emergency Relief (SER) benefits for a residence that was his current, permanent, and usual residence. Therefore, the Department was acting in accordance with policy when it denied the State Emergency Relief (SER) application.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it denied the Claimant's State Emergency Relief (SER) application.

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

Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 17, 2014

Date Mailed: April 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

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

KS/hj

cc: [redacted]