

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

IN THE MATTER OF:

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██
████████████████████

Reg. No.: 14-007267
Issue No.: 5001
Case No.: ██████████
Hearing Date: October 8, 2014
County: WAYNE-DISTRICT 15
(GREYDALE)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 October 8, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████, and ██████████ ██████████ Claimant's husband. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist, and ██████████, Family Independence Manager.

ISSUE

Did the Department properly deny Claimant's State Emergency Relief (SER) applications for property taxes effective May 21, 2014 and May 27, 2014?

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 or around April 2014 to May 2014, Claimant applied on two different occasions for SER assistance with property taxes.
2. At the time of Claimant's applications, Claimant's total amount of tax arrearage for all years exceeded \$2,000. See Exhibit A, pp. 1 – 3, 5, 7, 10, and 12.
3. On May 21, 2014, the Department sent Claimant an SER Decision Notice notifying Claimant that her property tax request was denied due to her shelter not being affordable to SER requirements. See Exhibit A, p. 8.

4. On May 27, 2014, the Department sent Claimant an SER Decision Notice notifying Claimant that her property tax request was denied due to her shelter not being affordable to SER requirements. See Exhibit A, p. 4.
5. On July 10, 2014, Claimant filed a hearing request, protesting the SER denials. See Exhibit 1, pp. 2-4.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049.

Preliminary matters

First, Claimant testified that she applied a third time for SER assistance for property taxes on or around June of 2014. However, Claimant testified she received an SER denial for the third application after her hearing request. The Department failed to provide a copy of the third SER denial letter. Nevertheless, this hearing lacks the jurisdiction to address Claimant's third denial for SER assistance regarding property taxes because it occurred subsequent to her hearing request. See BAM 600 (July 2014), pp. 4-6. Claimant can request another hearing to dispute the third SER denial. See BAM 600, pp. 4-6.

Second, both parties provided contradictory testimony as to Claimant's application dates and corresponding denial dates. For example, Claimant testified that she applied on April 27, 2014 and the corresponding denial notice date was May 21, 2014 (Claimant provided copy of denial notice). Also, Claimant testified that she applied again on May 15, 2014 and the corresponding denial date was May 27, 2014. However, the Department testified it did not have any record of the April 2014 application nor the denial notice dated May 27, 2014. The Department agreed with the application dated May 15, 2014 because it provided the application as evidence. See Exhibit 1, pp. 6-22. But, the Department testified the corresponding denial notice was dated May 21, 2014.

Based on the above information, Claimant provided credible evidence that she applied for SER assistance with property taxes on two different occasions. The evidence presented that the Department issued two separate SER denials, which infers that she applied for SER assistance on two separate occasions. See Exhibit A, pp. 4 and 8. As

such, this Administrative Law Judge (ALJ) will address both of Claimant's SER denials effective May 21, 2014 and May 27, 2014.

SER applications for property taxes

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. ERM 304 (October 2013), p. 1. Covered services under home ownership include property taxes and fees. See ERM 304, p. 1.

On or around April 2014 to May 2014, Claimant applied on two different occasions for SER assistance with property taxes. On May 21, 2014, the Department sent Claimant an SER Decision Notice notifying Claimant that her property tax request was denied due to her shelter not being affordable to SER requirements. See Exhibit A, p. 8. On May 27, 2014, the Department sent Claimant an SER Decision Notice notifying Claimant that her property tax request was denied due to her shelter not being affordable to SER requirements. See Exhibit A, p. 4.

At the hearing, it was discovered that the Department notated the improper denial reasons for both notices dated May 21, 2014 and May 27, 2014. See Exhibit 1, pp. 4 and 8. The SER denial notices indicated that the shelter is not affordable. See Exhibit 1, pp. 4 and 8. However, during the hearing, the Department argued that Claimant's total amount of tax arrearage for all years exceeded \$2,000. Therefore, the Department contested that her SER request should be denied due to exceeding agency limits. See Exhibit 1, p. 1.

Claimant testified that her home was in foreclosure and she sought assistance for the tax year of 2011. Claimant indicated that the Wayne County Treasurer would allow her to go into a payment plan in order to avoid foreclosure. However, Claimant indicated that she would only be allowed to go into a payment plan if she first paid a certain percentage (depending on the date) of her 2011 outstanding property taxes. See Exhibit 1, pp. 3-4. Thus, Claimant sought SER assistance in order to pay the certain percentage of her 2011 tax year to avoid tax foreclosure.

On May 22, 2014, Claimant even obtained a letter from the Wayne County Treasurer, which stated the above information and that she will continue making payments until the balance of the 2011 taxes are paid. See Exhibit A, p. 11. The letter further indicated that a \$2,000 SER payment will allow the payment plan to be approved. See Exhibit A, p. 11. Ultimately, Claimant argued that she only needs assistance for the tax year of 2011, which would allow her to get into a repayment plan in order to avoid foreclosure.

As part of the Claimant's evidence, she provided several foreclosure property tax statements, a stipulated payment plan, and tax receipts. See Exhibit A, pp. 1 – 3, 5, 7, 10, and 12. A review of all of Claimant's documentation found that her total amount of tax arrearage for all years exceeded \$2,000. See Exhibit A, pp. 1 – 3, 5, 7, 10, and 12.

Finally, Claimant testified that she is currently on a payment plan and her home is not in foreclosure.

The Department issues Home Ownership Services payments only to save a home threatened with loss due to mortgage foreclosure, land contract forfeiture, tax foreclosure, or court ordered eviction of a mobile home from land or a mobile home park. ERM 304, p. 4. In addition, all of the following conditions must be met (unless specified for a particular service), which includes that the total amount of tax arrearage for all years does not exceed \$2,000 (this only applies to home ownership for taxes). ERM 304, p. 4. The Department pays only the minimum amount required to resolve the tax emergency and does not pay until loss of the home is imminent. ERM 304, pp. 4-5. ERM 304 notes that the total tax arrearage amount is the total for every year combined, not just for the tax years which assistance is being requested. ERM 304, p. 5.

The amount to be authorized does not exceed the home ownership services maximum of \$2,000. ERM 304, p. 5. Verification requirements of property taxes and forfeiture are located in ERM 304. See ERM 304, pp. 6-7.

Based on the foregoing information and evidence, the Department properly denied Claimant's SER assistance with property taxes in accordance with Department policy.

The evidence indicates that the Department notated the improper SER denial reasons for both notices dated May 21, 2014 and May 27, 2014. See Exhibit 1, pp. 4 and 8. As stated above, the Department argued during the hearing that Claimant's SER denial was based on the property taxes exceeding the \$2,000 limit. However, Claimant's denial notices were not properly notated.


Nonetheless, the evidence presented that Claimant's total amount of tax arrearage for all years exceeded \$2,000. See Exhibit A, pp. 1 – 3, 5, 7, 10, and 12. Home ownership eligibility requires the total amount of tax arrearage for all years does not exceed \$2,000 (this only applies to home ownership for taxes). ERM 304, p. 4. ERM 304 further states the total tax arrearage amount is the total for every year combined, not just for the tax years which assistance is being requested. ERM 304, p. 5.

Based on this information, the Department must consider the total amount of tax arrearage for all years and not just the tax year of 2011, which Claimant sought SER assistance in order to avoid foreclosure/a payment plan. It was possible that Claimant's tax year for 2011 did not exceed \$2,000; however, a review of all of Claimant's tax years clearly exceeded the \$2,000 policy limit at the time of the applications. See Exhibit A, pp. 1 – 3, 5, 7, 10, and 12. As such, Claimant was not eligible for SER assistance for property taxes due her total amount of tax arrearage for all years exceeding \$2,000. See ERM 304, pp. 4-5.

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 properly denied Claimant's SER assistance application for property taxes effective May 21, 2014 and May 27, 2014.

Accordingly, the Department's SER decision is AFFIRMED.


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

Date Signed: **10/15/2014**

Date Mailed: **10/15/2014**

EJF / cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]