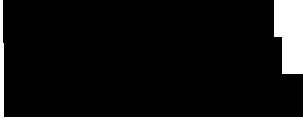



**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**


IN THE MATTER OF:



Reg. No.: 201413206
Issue No.: 5001
Case No.: 
Hearing Date: January 30, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 January 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included , Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's State Emergency Repair (SER) application for assistance with home ownership?

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 October 29, 2013, Claimant applied for SER assistance with home ownership.
2. On November 5, 2013, the Department sent Claimant a SER Decision Notice denying the application.
3. On November 12, 2013, Claimant filed a request for hearing disputing the Department's actions.

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 by Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, in a November 5, 2013, SER Decision Notice, the Department denied Claimant's application for assistance with home ownership services on the basis that Claimant's housing was not affordable.

SER assistance is available for home ownership services, including house payments for land contracts, when the home is threatened with loss due to land contract forfeiture. ERM 304 (October 2013), p. 1. In order to be eligible for such assistance, the client has to establish that the ongoing cost of maintaining the home is affordable to the SER group. ERM 304, p. 4. An exception to the housing affordability condition may apply if the client receives a voucher from the Homeless Assistance Recovery Program (HARP), Transitional Supportive Housing Leasing Assistance Program (TSHLAP), Transition In Place Leasing Assistance Program (TIPLAP), Rapid R-Housing Leasing Assistance, Temporary Basic Rental Assistance (TBRA) funded by MSHDA. ERM 207, pp 1-2. However, because Claimant was not leasing her home, she was not eligible for any of these exceptions to the housing affordability requirement.

Housing is affordable if the SER group's total housing obligation does not exceed 75% of the group's total net countable income. ERM 207 (March 2013), p. 1.

In calculating the household's total net countable income, the Department was required to consider the gross income Claimant's household expected to receive in the 30 days between October 29, 2013, the date Claimant filed the SER application, and November 28, 2013, the end date of the 30 day countable income period. ERM 207 (October 2013), p. 1. During this period, Claimant's sole income was her child support income for her two children. The Department presented a consolidated inquiry showing that Claimant received monthly child support income of \$383.50 for one child and \$397.50 for the other. The monthly child support income presented on the consolidated inquiry totaled \$781. Although Claimant contended that her actual monthly child support income totaled \$795, she did not have any documentation to support her position. Even if \$795 is considered for the group's total net countable income, in order for Claimant's housing to be affordable, her monthly housing expenses would have be less than \$596.

The Department testified that Claimant's housing was not affordable because it totaled \$775. In assessing housing affordability, the Department must consider the client's total housing obligation. ERM 207, p. 1. "Total housing obligation" means the total amount

the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. ERM 207, p. 1.


In this case, the land contract between Claimant and the land contract vendor showed that Claimant was responsible for paying the vendor monthly land contract installments of \$500. In calculating housing expenses, the Department also considered monthly property tax expenses totaling \$275. Although Claimant agreed with the Department's position that property taxes totaled about \$275 monthly, she noted that the land contract vendor, not her, had been paying these expenses since May 2013. However, the land contract provides that Claimant is responsible for paying property taxes and insurance premiums to insure the property. Because Claimant is responsible for property taxes, the Department properly considered the expense in calculating Claimant's total housing expenses at \$775.

Because the \$775 in total housing expenses exceeds 75% of Claimant's total net countable income, which, even if considered in the light most favorable to Claimant, is \$596, Claimant's housing was not affordable. Therefore, Claimant was not eligible for SER assistance with her land contract payments.

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 Claimant's SER application.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.


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

Date Signed: February 5, 2014

Date Mailed: February 6, 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

ACE/tlf

cc:

