

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

IN THE MATTER OF:



Reg. No.: 2014-15830
Issue No(s): 5001
Case No.: [REDACTED]
Hearing Date: February 26, 2014
County: Macomb County DHS #20

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 February 26, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Assistance Payments Worker.

ISSUE

Did the Department properly deny Claimant's State Emergency Relief (SER) application?

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 November 18, 2013, Claimant applied for State Emergency Relief for electric, home repairs, hot water tank, heat, furnace repair and taxes.
2. On November 20, 2013, Claimant's SER application was denied based on a determination that she did not have an emergency.
3. On December 2, 2013, Claimant filed a request for hearing contesting the Department's action.

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.

SER applicants must: complete the application process; meet financial and non-financial requirements; have an emergency which threatens health or safety and can be resolved through issuance of SER; take action within their ability to help themselves (for example, obtain potential resources and/or apply for assistance); not have caused the emergency (see ERM 204, Client-Caused Emergencies); and cooperate in providing information about income, assets, living arrangements, and other persons living in the home. SER services will be denied for applicants who fail to meet any of the above requirements. ERM 101.

Applicants may file a State Emergency Relief (SER) application in any county in Michigan. ERM 103.

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. SER also assists with home repairs to correct unsafe conditions and restore essential services. ERM 304.

ERM 304 covers the following services:

1. Home ownership services.

- House payments (mortgage, land contract payment or mobile home sales contract), including principal and interest, legal fees and escrow accounts for taxes and insurance.
- Property taxes and fees.
- Mobile home lot rent for owners or purchasers of mobile homes.
- House insurance premiums that are required pursuant to the terms of a mortgage or land contract.

2. Energy-related home repairs.

3. Non-energy-related home repairs.

ERM 304.

Home Ownership Services payments are only issued 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. Issue home repair payments only if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. The repair(s) must restore the home to a safe, livable condition. SER does not pay for improvements or nonessential repairs. ERM 304.

In addition, all of the following conditions must be met (unless specified for a particular service):

- An SER group member is an owner or purchaser of the home, or holds a life estate on the home with the responsibility for home repairs. If the home is co-owned, the cost of the emergency is not split between the co-owners or co-purchasers.
- The home is the SER group's permanent, usual residence.
- The home is not listed for sale.
- The home is not in jeopardy of loss. (This only applies to home repairs.) Deny repairs if there is a house payment or property tax arrearage, unless a workable plan exists for paying the arrearage.
- The ongoing cost of maintaining the home is affordable to the SER group; see ERM 207, Housing Affordability.
- The SER group did not cause the emergency. Do not authorize Home Ownership Services if the emergency was client-caused; see ERM 204, Client Caused Emergencies. (Property tax and home repair requests are exempt from the client-caused provision in Item 204.)
- The home is in livable condition and payment will guarantee safe, sanitary shelter both now and in the future. Do not approve any home ownership services payments for homes that are not in a livable condition or cannot be brought to a livable condition within the remaining SER home repair limit.
- The total amount of tax arrearage for all years does not exceed \$2,000. (This only applies to home ownership for taxes.) Pay only the minimum amount required to resolve the tax emergency. Do not pay until loss of the home is imminent; see Verification below.

Note: The total tax arrearage amount is the total for every year combined, not just for the tax years which assistance is being requested.

- The amount to be authorized does not exceed the home ownership services maximum of \$2,000, the energy-related home repair maximum of \$4,000 or the non-energy-related home repair maximum of \$1,500, and the issuance amount will resolve the emergency.

ERM 304.

While Claimant's November 18, 2013 SER application was not provided in the hearing exhibits, the testimony and hearing request establish Claimant applied for SER for electric, home repairs, hot water tank, heat, furnace repair and taxes for a home she had recently purchased in Detroit, MI.

The Assistance Payment's Worker's emphasis that the SER application was filed in Macomb County for services at an address in Wayne County is misplaced. ERM 103 allows an applicant to file a SER application in any county.

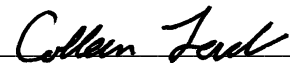
However, the November 20, 2013 Application Notice issued to Claimant states the SER application was actually denied because Claimant did not have an emergency. (Exhibit A, page 3)

The above cited ERM excerpts repeatedly indicate having an emergency is an eligibility requirement for requested SER services. The evidence does not establish Claimant had an emergency that threatened health or safety when she applied for SER. Claimant was still living in Macomb County when she applied for SER services for the home she had recently purchased in Detroit. There was no request for SER or any other indication of emergency or unsafe conditions at Claimant's residence in Macomb County. For example, there is no evidence Claimant was at risk of: eviction from her current residence, having to live in a home that was unsafe and/or without essential services, or becoming homeless at the time the SER application was filed. Claimant continued to reside at the same address in Macomb County at the time of the February 26, 2013 telephone hearing proceedings. Accordingly, the determination to deny Claimant's November 18, 2013 SER application because she did not have an emergency must be upheld.

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 because she did not have an emergency.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 19, 2014

Date Mailed: March 19, 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

CL/hj

cc:

