

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201430547
Issue No.: 4001, 5001
Case No.: [REDACTED]
Hearing Date: April 9, 2014
County: Muskegon County DHS

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 9, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

Whether the Department of Human Services (Department) properly denied the Claimant's application for State Disability Assistance (SDA) benefits on the basis of excess income?

Whether the Department of Human Services (Department) properly denied the Claimant's application for State Emergency Relief (SER) benefits on the basis that his housing is not affordable to him?

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 January 27, 2014, the Claimant applied for State Emergency Relief (SER) benefits seeking assistance with back taxes.
2. The Claimant receives per capita income and State Disability Assistance (SDA) as his only income.
3. On January 31, 2014, the Department denied the Claimant's State Emergency Relief (SER) application because the Department determined that his housing is not affordable to him.
4. On January 31, 2014, the Department notified the Claimant that it had approved him for State Disability Assistance (SDA) benefits in the monthly amount of \$ [REDACTED].

5. The Department received the Claimant's request for a hearing on February 5, 2014, protesting the denial of his State Emergency Relief (SER) application and the amount of State Disability Assistance (SDA) benefits that he was granted.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

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). 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).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2013).

The Claimant disputed the Department's records of when he receives his per capita income, and the Department conceded that it may have not determined his prospective income properly for the purposes of determining his eligibility for the State Disability Assistance (SDA) program.

The Department failed to establish that it properly determined the Claimant's eligibility for the State Disability Assistance (SDA) program.

State Emergency Relief (SER) benefits are determined based on a budget computation period of 30 days, which is referred to as the countable income period. The first day of the countable income period is the date the local office receives a signed application for State Emergency Relief (SER) benefits. The Department will verify and budget all non-excluded gross income the group expects to receive during the countable income period and will not prorate income when determining eligibility for State Emergency Relief (SER) benefits. Department of Human Services Emergency Relief Manual (ERM) 206 (October 1, 2013), p 1.

The Claimant applied for State Emergency Relief (SER) benefits on January 27, 2014, which makes this the first day of his countable income period. The Claimant did not dispute that he did not receive per capita income during his countable income period, and his only income during this 30 day period is his State Disability Assistance (SDA) income.

Bridges establishes the SER countable income period and determines the SER group's net countable income based on the application date and entry of income information in the data collection screens. Self-employment and unearned income must be entered using paydates that fall within the 30 day SER period to be budgeted. Department of Human Services Emergency Relief Manual (ERM) 206 (October 1, 2013), p 1. The Department determined housing affordability by multiplying the group's total net countable income by 75 percent. The result is the maximum total housing obligation the group can have based on their income, and be eligible for SER housing services. Department of Human Services Emergency Relief Manual (ERM) 207 (October 1, 2013), p 2.

The Department has established that it properly denied the Claimant's State Emergency Relief (SER) application because his housing is not affordable as defined by Department policy.

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 because his housing does not meet the affordability test.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined the amount of State Disability Assistance (SDA) benefits the Claimant is eligible to receive.

Accordingly, the Department's decision is **REVERSED** with respect to the State Disability Assistance (SDA) program. The Department's decision is **AFFIRMED** with respect to the State Emergency Relief (SER) program.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Provide the Claimant with a ten-day period to clarify his per capita income since December 1, 2013.
2. Initiate a determination of the Claimant's eligibility for the State Disability Assistance (SDA) as of March 1, 2014.

3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits he may be eligible to receive, if any.



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

Date Signed: April 22, 2014

Date Mailed: April 22, 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:

201421481/KS

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:

