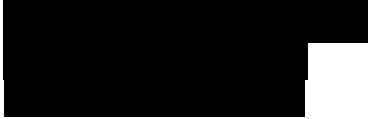



**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**


IN THE MATTER OF:



Reg. No.: 2014-7038
Issue No.: 5004
Case No.: 
Hearing Date: February 20, 2014
County: Wayne (82-15)

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, an in-person hearing was held on February 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included , Family Independence Specialist.

ISSUE

Did the Department properly process Claimant's September 17, 2014, State Emergency Relief (SER) application for assistance with rent eviction?

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 September 17, 2013, Claimant applied for SER assistance with rent eviction.
2. When Claimant did not receive a decision on the September 17, 2013, application, she submitted another SER application on October 11, 2013, for assistance with rent eviction.
3. On October 11, 2013, Claimant also filed a request for hearing concerning the Department's failure to process her September 17, 2013 SER application.

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, Claimant credibly testified that she submitted an SER application for assistance with eviction on September 17, 2013. Although the Department testified that it had not received a September 17, 2013, SER application from Claimant, it did process the October 11, 2013, application Claimant submitted at the same time she filed her request for hearing concerning the Department's failure to process the September 17, 2013, application.

Based on the information in the October 11, 2013, application, the Department determined that Claimant was not eligible for SER assistance because her housing was not affordable. Housing affordability is a condition of eligibility for SER benefits for housing assistance. ERM 303 (October 2013), p. 4; ERM 207 (March 2013), p. 1. Exceptions to the affordability requirement are available only to clients who have vouchers from the Homeless Assistance Recovery Program (HARP), Transitional Supportive Housing Leasing Assistance Program (TSHLAP), Transition In Place Leasing Assistance Program (TIPLAP), Rapid Re-Housing Leasing Assistance, or Temporary Basic Rental Assistance (TBRA) funded by MSHDA. ERM 207, pp. 1-2. Because there was no evidence presented that Claimant had one of these vouchers, Claimant's SER application was subject to meeting the housing affordability requirement.

In this case, Claimant testified that her monthly rental obligation was \$450. Because water is covered by Claimant's rent, her housing is affordable if the \$450 rent obligation (which is her SER group's total housing obligation) does not exceed 80% of the group's total net countable income. ERM 207, pp. 1, 2, 3. In order to determine whether a client's housing is affordable, the Department must multiply the group's total net countable income by eighty percent. ERM 207, p. 2. The result is the maximum total rent the client can have and be eligible to receive SER rent assistance. ERM 207, p. 2.

In this case, Claimant admitted that her only source of income was cash assistance she received under the Family Independence Program (FIP), but her FIP case had closed in July 2013 and she had no income in September 2013 or October 2013. Because Claimant had no income, her housing was not affordable. Thus, the Department acted in accordance with Department policy when it denied Claimant's October 11, 2013, SER application because the housing was not affordable. Although the Department did not

process Claimant's September 17, 2013, SER application, because Claimant admitted she had no income at that time, Claimant would not have been eligible for SER assistance under that application because her housing continued to be unaffordable. Therefore, the Department's failure to process Claimant's September 17, 2013 application was harmless in this case.

At the hearing, Claimant presented evidence that at a January 13, 2014, hearing, the presiding administrative law judge concluded that the Department had improperly closed Claimant's FIP case and ordered the Department to reinstate Claimant's FIP case effective August 1, 2013, and issue FIP supplements in accordance with Department policy. However, in processing an SER application, to determine a client's countable income, the Department considers the income the client actually received, or expected to receive, in the 30-day period beginning on the date the local office received a signed application. BEM 206 (October 2013), p. 1. Because Claimant did not have any FIP benefits during the 30-day countable period beginning on the application date, either the September 17, 2013, application date or the October 11, 2013, application date, the Department properly concluded that Claimant had no income and as a result, as discussed above, her housing is not affordable.

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's failure to process Claimant's September 17, 2013, SER application was harmless where it denied Claimant's October 11, 2013, SER application for housing non-affordability, and the relevant circumstances in assessing affordability for that application were the same in the September 17, 2013, 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: March 4, 2014

Date Mailed: March 5, 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/pf

cc:

