

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 14-017873  
Issue No.: 5001  
Case No.: [REDACTED]  
Hearing Date: February 19, 2015  
County: Kent-District 1

**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, telephone hearing was held on February 19, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and her daughter [REDACTED]. Participants on behalf of the Department included [REDACTED], Family Independence Manager and [REDACTED] as hearing facilitator.

**ISSUE**

Did the Department properly deny the 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 24, 2014, the Department received the Claimant's State Emergency Relief (SER) application.
2. On November 25, 2014, the Department notified the Claimant that it had denied her State Emergency Relief (SER) application.
3. On December 4, 2014, the Department received the Claimant's request for a hearing protesting the closure of her State Emergency Relief (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 Mich Admin Code, R 400.7001 through R 400.7049.

The production of evidence to support the department's position is clearly required under BAM 600 as well as general case law (see e.g., *Kar v Hogan*, 399 Mich 529; 251 NW2d 77 [1976]). In *McKinstry v Valley Obstetrics-Gynecology Clinic, PC*, 428 Mich 167; 405 NW2d 88 (1987), the Michigan Supreme Court addressed the issue of burden of proof, stating in part:

The term "burden of proof" encompasses two separate meanings. [citation omitted.] One of these meanings is the burden of persuasion or the risk of nonpersuasion. The other is the risk of going forward or the risk of nonproduction. The burden of producing evidence on an issue means the liability to an adverse ruling (generally a finding or a directed verdict) if evidence on the issue has not been produced. It is usually on the party who has pleaded the existence of the fact, but..., the burden may shift to the adversary when the pleader has discharged [its] initial duty. The burden of producing evidence is a critical mechanism[.]

The burden of persuasion becomes a crucial factor only if the parties have sustained their burdens of producing evidence and only when all of the evidence has been introduced.

*McKinstry*, 428 Mich at 93-94, quoting McCormick, *Evidence* (3d ed), Sec. 336, p. 946.

On November 24, 2014, the Claimant submitted a State Emergency Relief (SER) application. On November 25, 2014, the Department denied this application after determining that the Claimant's housing was unaffordable.

The Department determined that the Claimant had a \$ [REDACTED] rent expenses, a \$ [REDACTED] mortgage expense, and an \$ [REDACTED] expense for taxes, which exceed her net countable income. The Department was unable to explain how the Claimant's monthly expenses were determined, or how that she had both a monthly rent and a mortgage expense.

Since the Department denied benefits in this case based on unaffordability but could not explain how the Claimant's expenses were determined, this Administrative Law Judge finds that the Department has failed to meet its burden of establishing that the denial of the Claimant's November 24, 2014, State Emergency Relief (SER) application was a proper application of policy.


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 denied the Claimant's State Emergency Relief (SER) application.

During the hearing, the Claimant testified that she was protesting the Food Assistance Program (FAP) as well. The Claimant's request for a hearing dated December 18, 2014, does not give any indication that she was protesting the Food Assistance Program (FAP) and therefore this program was not address in this decision.

### **DECISION AND ORDER**

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

1. Initiate a determination of the Claimant's eligibility for State Emergency Relief (SER) benefits.
2. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.

  
\_\_\_\_\_  
Kevin Scully  
Administrative Law Judge  
for Nick Lyon, Acting DHS Director  
Department of Human Services

Date Signed: **3/2/2015**

Date Mailed: **3/2/2015**

KS/las

**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:

