

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003441
Issue No.: 5001
Case No.: [REDACTED]
Hearing Date: April 30, 2015
County: Marquette

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 30, 2015, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Health and Human Services (Department) included General Program Manager [REDACTED] and Eligibility Specialist [REDACTED].

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. Claimant applied for State Emergency Relief (SER) assistance on November 21, 2014, to repair her sewage pump.
2. The Department mailed Claimant the SER decision notice on November 25, 2014, indicating her SER request had been denied because her emergency had already been resolved.
3. The Department received Claimant's request for a hearing on February 19, 2015, protesting the denial of assistance in paying the sewage pump repairs.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference

Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. Mich Admin Code, Rule 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. Mich Admin Code, Rule 400.903(2).

Clients have the right to contest a Department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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.

Housing affordability is a condition of eligibility for SER and applies only to Relocation Services (ERM 303), Home Ownership Services and Home Repairs (ERM 304). Housing affordability does not apply to other SER services. ERM, Item 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. Renters can have a higher “total housing obligation” if heat, electricity and/or water/cooking gas are included.

SER services are authorized only if the SER group has sufficient income to meet ongoing housing expenses. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized.

SER is denied if the group does not have sufficient income to meet their total housing obligation. The total housing obligation cannot exceed 75% of the group’s total net countable income. ERM, Item 207, p. 1.

Claimant is disputing the Department’s decision denying her SER application. The Department denied Claimant’s SER request on November 25, 2014, indicating that the emergency had already been resolved and the housing was not affordable. Claimant requested \$█ in home repairs for a new sewage pump. Claimant reported that she had no income, but had been told she was approved for Social Security Disability and was just waiting for the payments to begin.

Claimant credibly testified that she dropped off the SER application at the local office on November 21, 2014, while her sewage pump was being replaced. She explained how the sewage backed up into her house for two days, before the line was unblocked and a new sewage pump installed. The Department denied the SER application after it was processed on November 24, 2014, because the emergency had already been resolved.

Even if this Administrative Law Judge were to find the sewer repair qualified as an emergency and reverse the Department, the next question is whether Claimant's housing is affordable.

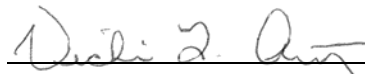
An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. Here, Claimant reported she has no current income. Based on Claimant's lack of income, the Department properly denied SER benefits because her housing is not affordable.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's SER eligibility.

The Department's SER eligibility determination is **AFFIRMED**.

It is **SO ORDERED**.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/12/2015**

Date Mailed: **5/12/2015**

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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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

