

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Claimant

Reg. No.: 2008-24519

Issue No.: 5026

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

November 4, 2009

Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a hearing has conducted from Clinton Township, Michigan on November 4, 2009. The Claimant appeared and testified. [REDACTED] [REDACTED] appeared on behalf of the Department.

ISSUES

Whether the Department properly denied the Claimant's SER application based upon the Housing Affordability requirement?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. The Claimant submitted an Application for State Emergency Relief ("SER") on April 29, 2008 for shelter relocation.

2. The Claimant submitted evidence of domestic violence, a lease agreement, a letter stating that \$300.00 of the monthly rental obligation would be paid by another individual.
(Exhibits 1 – 3)
3. The Claimant was responsible for utilities.
4. The Claimant receives child support income. (Exhibit 4)
5. The Claimant submitted her son’s paycheck stubs which the Department did not consider in determining affordability.
6. On May 19, 2008, the Department denied the SER application based upon affordability.
(Exhibit 5)

CONCLUSIONS OF LAW

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. The Department of Human Services’ [formally known as the Family Independence Agency] policies are found in the State Emergency Relief Manual (“ERM”).

State Emergency Relief (“SER”) prevents serious harm to individuals and families by assisting applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101, p. 1 All countable earned and unearned income is used to determine the group’s financial eligibility. ERM 206, p. 1 Housing affordability is a condition of eligibility for SER and applies only to Relocation Services and Home Ownership Services and Repairs. ERM 207, p. 1; ERM 304, p. 6 To determine a group’s maximum total housing obligation, a group’s total net countable income is multiplied by 75%. ERM 207, p. 2 The maximum total housing obligation cannot exceed a group’s total net countable income. ERM

207, p. 2 The SER budget is used to calculate and certify eligibility or ineligibility for each SER application. ERM 208, p. 1 An SER application is denied if the group does not have sufficient income to meet the total housing obligation. ERM 207, p. 1

In the record presented, the Claimant submitted the required verifications necessary to determine program eligibility. The Claimant's son's income was not used in determining eligibility which resulted in a denial of the application based upon affordability. Under these facts, the Department failed to act in accordance with policy when the son's earned income was not considered in determining eligibility. Accordingly, the Department's determination is not upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department failed to establish it acted in accordance with department policy when it denied the Claimant's SER application.

Accordingly, it is ORDERED:

1. The Department's determination is REVERSED.
2. The Department shall recalculate the Claimant's eligibility and include all available household income.
3. The Department shall notify the Claimant in writing of the determination.
4. The Department shall supplement for any lost benefits the Claimant's was entitled to receive if otherwise eligible and qualified.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/13/09

Date Mailed: 11/13/09

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

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 was made, within 30 days of the receipt date of the rehearing decision.

CMM/jlg

cc:

