

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: 2009-19050

Issue No: 5025

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 20, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on February 24, 2009. After due notice, a telephone conference hearing was held on Thursday, May 20, 2010.

ISSUE

Whether the Department of Human Services properly determined the Claimant's eligibility for State Emergency Relief benefits?

FINDINGS OF FACT

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

- (1) The Claimant applied for SER benefits on January 5, 2009. Department Exhibit E5.

(2) The Claimant received a delinquent tax receipt showing property taxes due on his property in the amounts of [REDACTED] for 2006, and [REDACTED] for 2007. Department Exhibit E-8.

(3) On February 18, 2009, the Department denied the Claimant's request for SER benefits. Department Exhibit E11.

(4) The Department received the Claimant's request for a hearing on February 24, 2009, protesting the denial of his SER application.

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. Family Independence Agency (FIA or agency) policies are found in the State Emergency Relief Manual (SER).

The Claimant submitted an application on January 5, 2009 for the SER program due to the threat of foreclosure on his property for unpaid property taxes. The Department approved his application on January 21, 2009, with a co-payment of [REDACTED], a [REDACTED] payment from other sources. Having received notice that the Department would pay [REDACTED] towards his property taxes, the Claimant paid [REDACTED] towards his property taxes.

However, on February 18, 2009, the Department sent the Claimant notice that it would not grant the [REDACTED] SER payment, and had denied the SER application. The Department's initial approval of the Claimant's SER application did not take into account an additional [REDACTED] in delinquent taxes due for the year 2007. The State Emergency Relief Manual

requires that the total amount of tax arrearage for all years does not exceed \$2,000 to be eligible for a SER payment. ERM 304. Therefore, the Claimant was not eligible for SER assistance with his delinquent property taxes.

The Claimant argued that the Department should pay the [REDACTED] that it had initially agreed to pay. The Claimant testified that if the Department paid this portion of his property taxes, he would pay the remaining tax liability for the year 2007. However, the claimant's grievance centers on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

The Department has established that the Claimant is not eligible for SER assistance with his property taxes because he does not meet the policy guidelines that the total arrearage be less than \$2,000.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's acted in accordance with policy when it denied the Claimant's request for SER assistance with his property taxes.

The Department's denial of the Claimant's SER application is AFFIRMED. It is SO ORDERED.

/s/

Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 28, 2010

Date Mailed: May 28, 2010

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 60 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.

KS/vc

cc:

