

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: 2009-5008
Issue No: 5012
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 22, 2010
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on April 22, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's State Emergency Relief (SER) application in October, 2008?

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 submitted an application for SER assistance on October 20, 2008, for help with an eviction. (Claimant Exhibit 2)
2. The claimant received RSDI in the amount of \$786 monthly. (Department Exhibit 3)

3. The claimant had been ordered to pay child support (including an arrearage) in the amount of \$510.90 per month. (Department Exhibit 3, Claimant Exhibit 5)

4. The department ran an SER budget, which showed the claimant's shelter need was not affordable. (Department Exhibit 2)

5. The claimant was mailed a Decision Notice (DHS-1419) on October 27, 2008, that indicated his SER request was denied because the shelter was not affordable. (Claimant's Exhibit 1)

6. On October 31, 2008, the claimant submitted a hearing request and also submitted paperwork that showed he had gone to court to reduce his court-ordered child support payments. (Claimant Exhibit 3, 4, 6)

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. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

Department policy states:

DEPARTMENT POLICY

State Emergency Relief (SER) prevents serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM, Item 101, p. 1.

DHS-1419, Decision Notice

Inform all SER applicants in writing of the decision made on their application. Mail or give the DHS-1419, Decision Notice, to the applicant.

If the SER group meets all eligibility criteria but has an income or asset co-payment or shortfall or contribution, SER eligibility may be approved on SIMS, but do not issue payment until the client provides proof that the shortfall or contribution, and/or co-payment has been made.

Verification of payment must be made within the 30-day authorization period or no SER payment will be made and the client will have to reapply.

If the co-payment, shortfall, contribution or combination exceeds the need, the application can be denied. ERM, Item 103, p. 3.

HOUSING AFFORDABILITY

DEPARTMENT POLICY

Housing affordability is a condition of eligibility for SER and applies only to Relocation Services (ERM 303) and Home Ownership Services and Home Repairs (ERM 304). Housing affordability does not apply to other SER services. ERM, Item 207, p. 1.

Requirements

In this item, “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.

Authorize SER for services 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.

Deny SER 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.

Affordability Calculation

Determine whether an SER group meets the Housing Affordability requirement:

- Multiply the group's total net countable income by 75%. The result is the maximum "total housing obligation" the group can have, based on their income, and be eligible for SER housing services, and
- Refer to the table at the end of this item for any increases in the basic 75% test if the group is renting. Heat, electric or water/cooking gas is included in the rent. Multiply the resulting percentage by the group's total net countable income. The result is the absolute "total housing obligation" the group can have and be eligible for SER housing services. ERM, Item 207, p. 1.

INCREASES IN THE BASIC 75% HOUSING COST STANDARD

Note: Utility included in the rent cost.

Percentage added to basic 75% housing standard:

| | |
|--------------------------------|-----|
| Heat | 15% |
| Electric | 5% |
| Water or Cooking gas (or both) | 5% |

ERM, Item 207, p. 2.

BUDGET PROCEDURES

DEPARTMENT POLICY

SER group members must use their available income and cash assets that will help resolve the emergency. **Do not make a payment unless it will resolve the emergency.** ERM, Item 208, p. 1.

In this case, the department denied the claimant's SER request for help with his mobile home lot rent because the claimant's housing was not affordable. The claimant received RSDI in the amount of \$786 per month. At the time of the application, the claimant had been ordered to

pay \$510.90 in child support monthly. The claimant's lot rent was approximately \$355 per month, which exceeded his countable monthly net income (\$275.10). Thus, the department denied his request as it was not affordable and would not resolve the emergency situation.

Department policy indicates that the department must deny the SER application 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 207. ERM 208 also requires that the SER payment resolve the emergency. In this case, the housing obligation was more than 75% of the group's total net countable income, in fact, it exceeded his net income altogether.

The claimant indicates that his lawyer had motioned the Court to reduce his child support and that the motion had been granted. The claimant further testified that his child support payments went down to \$103.50 per month. However, the claimant did not provide the local DHS office with any information or documentation showing his child support was being reduced until October 31, 2008, after the SER denial had been made (October 27, 2008). The department can not base its decision on information it has not received. Thus, this Administrative Law Judge can not hold the department wrongfully denied the claimant's SER application, as the denial was according to policy, using the information that they had.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant's SER application as the claimant did not meet the housing affordability test when he applied for SER services.

Accordingly, the department's decision is UPHeld. SO ORDERED.

/s/

Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 3, 2010

Date Mailed: May 11, 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 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 mailing 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.

SLK [REDACTED]

cc: [REDACTED]