

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: 2009-17122
Issue No: 5032
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 4, 2009
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on November 4, 2009. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly deny Claimant's State Emergency Relief (SER) application of January 22, 2009?

FINDINGS OF FACT

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

- (1) On August 29, 2008, Claimant submitted an application for State Emergency Relief (SER) for relocation services in connection with storm damage to her residence.
- (2) On September 5, 2008, a Decision Notice State Emergency Relief (DHS-1419) was sent to Claimant denying her application.

- (3) On November 21, 2008, Claimant entered a month to month lease agreement for an apartment.
- (4) On December 11, 2008, Claimant had belongings moved from rented storage to the new apartment.
- (5) On January 22, 2009, Claimant submitted a new application for State Emergency Relief (SER) requesting payment of her security deposit, one month's rent, and moving expense for transfer of her belongings from storage to the new apartment. The application was not signed.
- (6) On January 29, 2009, Claimant was sent a Verification Checklist (DHS Form 3503) inquiring if she resided at the address.
- (7) On February 4, 2009, the Department received a response to the Verification Checklist (DHS Form 3503) that Claimant was residing at the address.
- (8) On February 5, 2009, Claimant was sent a Decision Notice State Emergency Relief (DHS-1419) denying the application because there was no emergency.
- (9) On February 18, 2009, submitted a request for hearing.

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).

In accordance with Department of Human Services policy Bridges Administration Manual (BAM) 600 page 4, the only question that can be addressed in this hearing is denial of the January 22, 2009 application.

The Department of Human Services denied the application in accordance with policy ERM 303. Claimant submitted copies of that policy as it was on 4/1/08. The policy required that relocation services would be approved only if one of several circumstances existed. Claimant's residence in an apartment does not equate to any of the circumstances necessary to issue relocation services.

While Claimant met the policy requirement at times prior to moving into the new apartment, the circumstances required in the policy are those circumstances at the time of the application. Claimant asserts her prior circumstances should be used in determining her eligibility for relocation services. That request is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule 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); *Auto-Owners Ins Co v Elchuk*, 103 Mich App 542, 303 NW2d 35 (1981); *Delke v Scheuren*, 185 Mich App 326, 460 NW2d 324 (1990), and *Turner v Ford Motor Company*, unpublished opinion per curium of the Court of Appeals issued March 20, 2001 (Docket No. 223082).

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly denied Claimant's State Emergency Relief (SER) application of January 22, 2009.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 5, 2010

Date Mailed: January 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.

GFH/ 

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