

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: 2009-21360
Issue No: 5025
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 27, 2010
Genesee 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 May 27, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's State Emergency Relief (SER) application in February, 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. The claimant applied for SER help with delinquent taxes on February 17, 2009. (Department Exhibit 1)
2. The claimant was receiving RSDI in the amount of \$1340 monthly and had \$100 in a checking account. (Department Exhibit 1, 2)

3. The 2006 property taxes were in forfeiture status, with the claimant owing \$943.99 for that year. (Department Exhibit 3)

4. When the department budgeted the claimant's RSDI income and the checking account asset, the claimant had a total copayment of \$945, which exceeded the claimant's need, so his application was denied. (Department Exhibit 4, 5)

5. The claimant submitted a hearing request on March 19, 2009.

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).

ELIGIBILITY DETERMINATION

LOA2 State Emergency Relief Budget

Complete an LOA2 SER budget for each request/application. Use it to calculate payment maximums, required payments, income and asset eligibility, etc. and to certify eligibility or ineligibility. ERM, Item 103, p. 2.

ASSETS

DEPARTMENT POLICY

Verify and count all non-excluded assets of SER group members. Count only available assets when determining SER eligibility. Consider an asset totally available unless it is claimed and verified that a portion of the asset's value belongs to another owner or owners. ERM, Item 205, p. 1.

Asset Limits

Exclude the first \$50 of an SER group's cash assets except for burials. See ERM 306, Burials.

Count cash assets over \$50 as part of the group's asset co-payment. SER groups must use countable cash assets to meet the group's needs.

COUNTABLE INCOME

Verify and budget all non-excluded gross income the SER group expects to receive during the budget computation period. **Do not prorate income.**

Unearned Income Examples:

- . FIP and SDA
- . Social Security benefits (RSDI/SSI). Use the net amount received.

Note: Do not count reimbursement of Medicare premiums.

Income/Asset Co-payment

Available income means net income in excess of the SER need standard (see Exhibit 1). This is the income co-payment.

Cash assets in excess of \$50 in the asset co-payment.

Add the income and asset co-payments together to determine the SER group's total co-payment. ERM, Item 208, p. 1.

- . The total amount of taxes past due for all years does not exceed \$2,000. Pay only the minimum amount required to resolve the tax emergency. Do not pay until loss of the home is imminent. See Verification below. (This only applies to Home Ownership for Taxes.)

Property tax sale:

- . Notice scheduling a judicial foreclosure hearing. This occurs 1 year after forfeiture -- generally in February.

Note: First, taxes become delinquent. Then, a year later forfeiture occurs and interest and fees increase. One year later, a circuit court hearing is held and foreclosure occurs.

Payment of taxes may be made once the client provides a notice scheduling the judicial foreclosure hearing. It is not necessary to

wait until the judgment has been entered. Once a judgment has been entered, the client must make payment within 21 days of entry of the foreclosure judgment but no later than March 31.

Once the March 31 date has passed, ownership is transferred to the county and there is no redemption possible. Process the application within the SOP or by the date necessary to prevent the loss of the property, whichever is sooner. ERM, Item 304, p. 4.

Department policy indicates that property tax payments may only be made once a client provides a notice scheduling the judicial foreclosure hearing. ERM, 304. In this case, the only taxes eligible for SER consideration were the taxes in foreclosure status, which were the taxes from 2006, in the amount of \$943.99.

The claimant receives RSDI in the amount of \$1340 monthly. The entire amount must be budgeted as unearned income. ERM 208. The claimant has a group size of one, which would equal an SER need standard of \$445. ERM 208, Exhibit 1. The claimant's income minus the need standard is \$895, which is the claimant's income copayment.

The claimant also indicated that he has a checking account with a balance of \$100. Department policy indicates that the first \$50 of an asset is excluded. ERM 208. However, anything in excess of \$50, must be included as an asset copayment. So, in this case, the claimant has an asset copayment of \$50. The total of the claimant's asset and income copayments is \$945. This is in excess of the amount of property taxes included in the foreclosure, or \$943.99. Therefore, the claimant's copayment was in excess of the claimant's need.

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 in February, 2009.

Accordingly, the department's actions are UPHeld. SO ORDERED.

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

Date Signed: July 12, 2010

Date Mailed: July 12, 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.

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