

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: 2009-22747

Issue No: 5025

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 1, 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 April 3, 2009. After due notice, a telephone hearing was held on Tuesday, June 1, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's State Emergency Relief (SER) eligibility?

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 relief on March 24, 2009. Department Exhibit 5.
- (2) The Claimant has past due taxes of [REDACTED] for 2005, and [REDACTED] for 2007.

Department Exhibit 7.

(3) The Claimant received a foreclosure notice for unpaid property taxes from the Genesee County Treasurer.

(4) The Department denied the Claimant's application for SER relief due to an excessive tax liability.

(5) The Department received the Claimant's request for a hearing on April 3, 2009, protesting the denial of SER relief.

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 March 24, 2009, for the SER program due to the threat of foreclosure on his property for unpaid property taxes. The Claimant owes past due property taxes of [REDACTED] for 2005, and [REDACTED] for 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 Department denied the Claimant's application for SER assistance with his delinquent property taxes.

The Claimant argued that the Department's policy authorizes it to pay the minimum amount required to resolve the tax emergency, and that the Department will not make a payment unless home loss is imminent. The Claimant argued that a correct application of the Department's policy would have the Department pay the minimum amount to prevent foreclosure on his property for unpaid property taxes from 2005. The Claimant argued that the

Department should not consider his 2007 tax liability, because that tax arrearage does not create an immediate risk of property loss.

The State Emergency Relief Manual, ERM 304, includes the requirement, “The total amount of tax arrearage for all years does not exceed \$2,000.” The Department does not have the authority to grant assistance where the total amount of tax arrearage exceeds the \$2,000 limit, even though payment of a smaller amount may have prevented foreclosure. The policy does not allow the Department to speculate whether tax liabilities not currently in foreclosure status would lead to foreclosure in the future, but limits assistance to cases where the current total liability does not exceed \$2,000.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that that the Department acted in accordance with policy in determining the Claimant’s SER eligibility.

The Department’s SER eligibility determination is AFFIRMED. It is SO ORDERED.

/s/

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

Date Signed: June 23, 2010

Date Mailed: June 24, 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:

