

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

██████████

Claimant,

Reg No: 2009-870

Issue No: 5020

Case No: ██████████

Load No: ██████████

Hearing Date:

May 28, 2009

Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from ██████████ on May 28, 2009.

ISSUE

Whether the Department properly denied Claimant's application for State Emergency Relief (SER) benefits?

FINDINGS OF FACT

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

(1) On July 25, 2008, a Judgment was entered against Claimant for ██████████ for rent and costs. Claimant was required to pay this amount prior to August 8, 2009 or an Order of Eviction would be issued by the Court. (Exhibit 2)

(2) On August 1, 2008, Claimant filed a SER application due to a “court-ordered eviction notice”. (Exhibit 1)

(3) A SER budget was not completed by the Department. (Exhibit 3)

(4) On August 14, 2008, the Department mailed Claimant a Decision Notice, DHS-1419, which stated that her application was denied because the housing was not affordable . (Exhibit 4)

(5) On August 25, 2008, the Department received Claimant’s hearing request protesting the denial of her 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. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

Housing affordability is a condition of eligibility for State Emergency Relief (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. The Department should authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. A 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. The Department should 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 207, p.1

First, Claimant's application was made almost a year ago and the Department representative at hearing, [REDACTED], was neither the caseworker nor supervisor in the case. Second, the Claimant offered seemingly credible testimony that she was able to afford her housing, at least by the Department's formula/policy. She testified that she had approximately [REDACTED]/month in earned income and approximately [REDACTED]/month in unearned income prior to filing her SER application and was expecting to continue receiving the [REDACTED]/month in unearned income plus [REDACTED]/mo in [REDACTED] after it was filed. The Department's position was that Claimant only received [REDACTED]/month in unearned income at the time of application, but there is no dispute that it did not take into account Claimant's [REDACTED]. The Department offered an August 14th SER budget, but it was not filled out. [REDACTED] testified she thought the caseworker must have decided she did not need to do it because the housing was clearly not affordable based on her [REDACTED]/month income. Third, Claimant offered testimony that her rent was [REDACTED] and then went to [REDACTED] at the end, but the landlord agreed to take whatever she could give him. She also testified that she had new housing lined up that was [REDACTED]/month, but the landlord was going to let pay just the utilities for a couple months until she got back on her feet.

[REDACTED] did an admirable job trying to reconstruct why the Department denied Claimant's application, but I cannot find that the Department acted in accordance with policy in denying Claimant's application for SER benefits based on the testimony and documents offered at hearing for the reasons articulated above.

2009-870/smb

SMB/db

cc:

