

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201012770
Issue No.: 5017
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 23, 2010
Office: Wayne County DHS (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on September 23, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], appeared and testified.

ISSUE

Whether DHS properly denied Claimant's request for State Emergency Relief (home repairs) based on a co-signer of the residence not living at the residence where home repairs are sought.

FINDINGS OF FACT

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

1. Claimant applied for SER on an unspecified date.
2. Claimant's SER application sought assistance for home repairs to her residence on [REDACTED].
3. Following the request of Claimant's verifications associated with the SER application, DHS learned that [REDACTED] was a co-signer (with Claimant) for the purchase of [REDACTED].
4. [REDACTED] was not a resident of [REDACTED].

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5. On an unspecified date, DHS denied Claimant's application for SER because [REDACTED] was a co-owner but not a resident of [REDACTED] and because Claimant failed to prove that Claimant and [REDACTED] share in the responsibility of the home.
6. Claimant submitted a hearing request on 11/2/09 disputing 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 (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization.

Adults and dependent children who normally live together are in the same SER group. ERM 201 at 1. Persons temporarily absent due to illness or employment are also in the same group. *Id.*

It was not disputed that [REDACTED] was verified as a co-owner of [REDACTED]. It was also not disputed that [REDACTED] does not live at [REDACTED]. DHS contends that as a co-owner, [REDACTED] is a required SER group member and must live at the residence for which home repairs is sought. DHS regulations have no such requirement.

Only adults and children who normally live together are in the same SER group. It was not disputed that [REDACTED] does not live with Claimant. Accordingly, [REDACTED] is not an SER group member.

DHS specialists are directed to issue home repair payments only if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. The repair(s) must restore the home to a safe, livable condition. SER does not pay for improvements or nonessential repairs. ERM 304 at 3. In addition, all of the following conditions must be met (unless specified for a particular service):

- An SER group member is an owner or purchaser of the home, or holds a life estate on the home with the responsibility for home repairs. If the home is co-owned, the cost of the emergency is not split between the co-owners or co-purchasers.

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- The home is the SER group's permanent, usual residence.
- The home is not listed for sale.
- The home is not in jeopardy of loss. (This only applies to home repairs.) Deny repairs if there is a house payment or property tax arrearage, unless a workable plan exists for paying the arrearage.
- The ongoing cost of maintaining the home is affordable to the SER group.
- The SER group did not cause the emergency. Home repair requests are exempt from the client-caused provision.
- The home is in livable condition and payment will guarantee safe, sanitary shelter both now and in the future. Do not approve any home ownership services payments for homes that are not in a livable condition or cannot be brought to a livable condition within the remaining SER home repair limit.
- The total amount of tax arrearage for all years does not exceed \$2,000. (This only applies to home ownership for taxes.) Pay only the minimum amount required to resolve the tax emergency. Do not pay until loss of the home is imminent.
- The amount to be authorized does not exceed the home ownership services maximum of \$2,000, the energy-related home repair maximum of \$4,000 or the non-energy-related home repair maximum of \$1,500, and the issuance amount will resolve the emergency. *Id* at 3 and 4.

One of the above requirements for SER (home repair) relating to the DHS basis for denial is that an SER group member (Claimant) is an owner or purchaser of the home. It was not disputed that Claimant was an owner of the home which needed repairs. Thus, DHS would have no basis to deny Claimant's application based on this requirement.

DHS hinted that [REDACTED] was not Claimant's permanent residence because Claimant utilized a separate address for her mailings. SER (home repairs) requires that the home is the group's usual and permanent residence. Claimant credibly testified that she had occasional problems receiving mail and chose a more reliable address to receive her mail. Claimant's explanation was very reasonable. As stated above, the SER group would not include [REDACTED] so her residency is irrelevant.

The above DHS regulations state that if the home is co-owned, then the emergency cost is not split between co-owners. Claimant credibly testified that her co-owner, [REDACTED], was a cosigner to her mortgage and was not responsible for any of the home's ongoing costs. [REDACTED] is an out-of-state resident who would have no apparent reason to share in the cost of Claimant's home's repairs. DHS had no basis to believe that [REDACTED] would have shared in the costs of the home repair. It is found that the

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cost of the home repairs will not be split between the co-owners. Accordingly, it is found that DHS improperly denied Claimant's SER application.

The undersigned makes no finding concerning Claimant's eligibility for SER (home repairs) based on other requirements for the program. It is possible that Claimant's request may be denied for a basis that DHS has yet to address.

DHS and Claimant were unable to verify Claimant's SER application date. It is believed that DHS can verify Claimant's original SER application date through Bridges, their database. It is known that Claimant filed a hearing request on 11/2/09 and that the SER application must have been denied prior to the submission of the hearing request.

Claimant testified that among the home repairs she requested was replacement of a furnace and windows. Claimant testified that several months have elapsed since the date she submitted her SER application and requested a hearing disputing the denial of the SER application. In those months, Claimant has resolved some repairs by paying for them out of her pocket. DHS shall not deny Claimant's re-registered SER application based on Claimant resolving her emergency by completing repairs subsequent to the improper denial. DHS may not profit by improperly denying Claimant's SER application and holding it against Claimant for making repairs during the months Claimant awaited resolution through the administrative process. If Claimant's SER application is ultimately approved, DHS shall reimburse Claimant for any approved repairs that were made following the improper denial of her original SER application.

DECISION AND ORDER

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for SER benefits. It is ordered that DHS shall re-register Claimant's SER application for home repairs. DHS shall utilize their database to confirm the application date. In accordance with their policies, DHS may make requests for required verifications. As DHS may be requesting information which Claimant previously submitted or information that is several months old, DHS shall allow Claimant no less than 45 days to return the verifications.

/s/



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

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Date Signed: September 30, 2010

Date Mailed: September 30, 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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