

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

IN THE MATTER OF:



Reg. No: 2010-37720
Issue No: 4031, 5016
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 10, 2010
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on August 10, 2010. Claimant personally appeared and testified.

ISSUES

Did the Department of Human Services (the department) properly deny claimant's application for State Emergency Relief?

Did the Department of Human Services (the department) properly fail to register and act on claimant's application for State Disability Assistance (SDA)?

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 Food Assistance Program, State Disability Assistance, and State Emergency Relief benefits.
- (2) Claimant had been receiving Short Term Disability from her employer due to a surgery.
- (3) Claimant is a teacher for the Saginaw Public Schools.
- (4) Claimant's Short Term Disability was coming to an end.
- (5) Claimant stated that she was due to return to work on March 1.

- (6) Claimant brought in a letter showing that she was eligible for Short Term Disability and she could apply for Long Term Disability through her employer if she needed to be off work more than 90 days.
- (7) Claimant stated that she would most likely be back to work at that time and would therefore withdraw her request for State Disability Assistance according to the department caseworker.
- (8) A supervisor talked to the claimant and the claimant verified that she wanted a hearing based upon her own withdrawal of the SDA request.
- (9) On February 5, 2010, the department caseworker sent claimant notice that her application for SER was denied because her home was not threatened with a mortgage foreclosure and stating that claimant had withdrawn her State Disability Assistance application.
- (10) On February 5, 2010, claimant reapplied for State Emergency Relief (SER) this time requesting help with taxes. The SER was denied because claimant's home was not in danger of being lost from tax foreclosure.
- (11) On February 5, 2010, claimant filed a request for a hearing to contest the department's negative action on the SER and to contest the fact that she withdrew her SDA application.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, et seq., and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the instant case, claimant contested the fact that she withdrew her State Disability Assistance application and stated on the record that she would never have withdrawn her application because she has not returned to work and is still disabled. Claimant provided medical information and a medical packet at the hearing indicating that she still does want to pursue a SDA application. Claimant should reapply for SDA benefits. However, this Administrative Law Judge will find that claimant's testimony is credible in that she may have misunderstood what she was doing, and there was no written withdrawal in the file that claimant was withdrawing her application. Therefore, this portion of the case must be REVERSED.

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).

State Emergency Relief (SER) prevents serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. SER applicants must complete the application process, meet financial and non-financial requirements,

- have an emergency which threatens health or safety and can be resolved through issuance of SER.
- Take action within their ability to help themselves, i.e. obtain potential resources and/or apply for assistance
- Not cause the emergency
- Cooperate in providing information about income, assets, living arrangements, and other persons living in the home

The department is to deny services for applicants who fail to meet any of the above requirements. ERM, Item 101, p. 1.

SER helps to prevent loss of a home if no other resources are available and the home would be available to provide safe shelter for the SER group in the foreseeable future. SER assists with home repairs to correct unsafe conditions and restore essential services. The following services are covered by ERM, Item 304:

- House payments, mortgage, land contract payment or mobile home sales contract, including principle and interest, legal fees, and escrow accounts for taxes and insurance.
- Property taxes and fees
- Mobile home lot for owners or purchasers of the mobile homes
- House insurance premiums that are required pursuant to the terms of a mortgage or land contract
- Energy related home repairs
- Non-energy related home repairs.

Home ownership services payments are only issued to save a home threatened with loss due to:

- Mortgage foreclosure
- Land contract [REDACTED]
- Tax foreclosure or sale
- Court ordered eviction of a mobile home from land or a mobile park
- Repossession for failure to meet an installment loan payment for a mobile home ERM, Item 304, p. 1.

In the instant case, claimant's mortgage was not in foreclosure and there was no threatened tax foreclosure on her home. Therefore, the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied both of claimant's applications for SER benefits with her mortgage and with her mortgage taxes.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it denied claimant's application for State Emergency Relief for assistance with mortgage and assistance with taxes.

Accordingly, the department's decision is partially AFFIRMED.

This Administrative Law Judge finds that claimant did file an application for State Disability Assistance benefits based upon disability. The department shall reinstate claimant's State Disability Assistance benefit application and shall make a determination as to whether or not claimant has eligibility for State Disability Assistance benefits from the date of application.

Landis

/s/ _____
Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 20, 2010

Date Mailed: August 23, 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.

LYL/alc

cc:

