

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.: 2010-42919  
Issue No.: 5003  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: October 27, 2010  
DHS County: Wayne (15)

**ADMINISTRATIVE LAW JUDGE: Jan Leventer**

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on October 27, 2010. Claimant appeared and testified. [REDACTED], appeared and testified for the Department of Human Services (DHS). [REDACTED] was also present.

**ISSUE**

Whether DHS properly denied State Emergency Relief (SER) benefits to Claimant?

**FINDINGS OF FACT**

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

1. In March 2010, Claimant applied with DHS for SER benefits.
2. Along with her application, Claimant submitted a property tax record, a payment coupon showing the amount of her monthly mortgage payment, and proof of homeowner's insurance.
3. DHS failed to notify Claimant that she needed to provide more verification of home ownership.
4. On March 18, 2010, DHS denied SER benefits to Claimant based on her failure to provide additional verification of home ownership.

5. On April 2, 2010, Claimant filed a notice of hearing request with DHS.

### **CONCLUSIONS OF LAW**

SER was established by 2004 Michigan Public Acts 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by Michigan Administrative Code Rules 400.7001-400.7049. DHS policies are found in the State Emergency Relief Manual (SER). This manual is available online at [www.michigan.gov/dhs-manuals](http://www.michigan.gov/dhs-manuals).

The ERM Items that I find to be applicable in this case are ERM 103 and 205. In this case, Claimant submitted along with her application a property tax record, mortgage payment coupon and proof of homeowner's insurance as verification of home ownership. I will discuss ERM 205, "Assets," first to determine whether these documents are acceptable verification of home ownership according to law.

ERM 205 lists six documents and types of documents that DHS accepts: deed, mortgage, purchase agreement of (sic) contract; state equalized value (SEV) on current property tax records multiplied by two (2); attorney or court records, contract holder (sic), county records, and a statement of a real estate agent or financial institution. ERM 205, p. 5 of 6.

Applying this manual Item to the case before me, I find that DHS' initial error in this case is that it failed to review Claimant's tax record to see if the SEV of the home was printed on the document. I find that the SEV amount is the second type of asset verification accepted in the ERM 205 list. If the SEV was on the tax record, or any other record for that matter, Claimant would have satisfied the verification requirement. DHS erred in failing to check for this information.

Second, DHS testified at the hearing, "We never ask for deeds." Based on this testimony, I find that DHS failed to inform Claimant, in writing or by phone, of at least one of the six types of documents that could be submitted for asset verification. I therefore find DHS committed a second error in this case, in that DHS failed to inform Claimant what verification was required. ERM 103, 205.

Having considered ERM 205, "Assets," I now turn to the second ERM manual Item I cited, which is ERM 103, "Application Procedures." This section requires that when DHS needs more verification documents, it must notify the client as follows:

### **VERIFICATION**

Clients **must** be told what verification is required, how to obtain it, and the due date of eight calendar days beginning

with the date of application. Use the DHS-3503, Verification Checklist, to request verification. ERM 103, p. 4 of 5.

Note: In the event the application is not processed on the application date, the client **must** always be allowed eight days to provide verification. The deadline is eight days from the date verification is requested. This does not change the standard of promptness date.

The client **must** make a reasonable effort to obtain required verification, but the specialist **must** assist if the applicant needs and requests help. If neither the client nor the specialist can obtain verification despite a reasonable effort, **use the best available information. If no evidence is available, the specialist must use their best judgment** (bold print added for emphasis). ERM 103, pp. 4-5.

First, with regard to the requirements of ERM 103, I find and determine that there is nothing in the record to establish that DHS afforded Claimant eight days to provide the proper documentation. The DHS testimony was that it could not verify in sworn testimony or by a review of the DHS case file during the hearing, that a request for more verification, such as a Verification Checklist, was actually sent to Claimant. However, Claimant's testimony was that she did not receive a request for more documents. I accept Claimant's credible and un rebutted testimony that she never received a request for more documentation, and find that DHS did not fulfill this requirement.

Second, with regard to ERM 103, I find that even if DHS had only the documents provided with the application, it had a duty to review them to see if they could be accepted as "the best available information." I find and conclude that, as these documents contained sufficient information to establish Claimant's property tax arrearage and as Claimant acknowledged the debt was hers by submitting it, the tax record in tandem with the other two documents was sufficient to verify home ownership.

Third, with regard to the requirements of ERM 103, I find and conclude that DHS failed to "use their best judgment." I find that DHS decided there was in effect "no evidence" of home ownership in this case. When there is no evidence, ERM 103 states that "the specialist must use their best judgment." I find that ERM 103 requires DHS to thoroughly consider the documents in its possession and exercise its best judgment before denying an SER application. I find that this was not done in this case.


Accordingly, for all of the above reasons, I find and determine that DHS committed error and shall be REVERSED. DHS is ORDERED to reinstate the application, review the

4010-42919/JL

asset verification in the file under ERM 205, and request with particularity more documentation if it is, in fact, necessary.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds and concludes that DHS shall be REVERSED. DHS is ORDERED to reinstate Claimant's SER application and process it as stated above and in accordance with all applicable DHS policies and procedures.

  
\_\_\_\_\_  
Jan Leventer  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: October 28, 2010

Date Mailed: October 28, 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.

JL/pf

cc:

