

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.: 2010-48888
Issue No.: 5012
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 17, 2010
Macomb County DHS (12)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 November 17, 2010. The claimant appeared and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's SER application for mortgage assistance in foreclosure?

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 State Emergency Relief for mortgage assistance in the amount of \$5,000 on June 18, 2010. Exhibit 1
2. The Department denied the Claimant's applications because it determined that based on the Claimant's income from self employment the housing was not affordable. Exhibits 2 and 3.
3. The Claimant indicated in his application for SER assistance that his gross monthly income was 0 and his average number of hours worked per week was 0. Exhibit 1, page 3.
4. The department prepared a budget on June 18, 2010 which determined that the housing was not affordable. Exhibit 2

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5. The Department sent a State Emergency Relief Decision Notice on June 22, 2010 denying the requested mortgage relief because it found that the housing was not affordable according to SER requirements. Exhibit in 3
6. The Claimant confirmed that his income records were based on his checking account receipts and were the best records available at the time.
7. The Department's determination that the Claimant's housing was not affordable was correct.
8. The Claimant requested a hearing as you June 28, 2010 which was received by the department on June 28, 2010 protesting the denial of his application for SER.

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 State Emergency Relief Manual (SER).

State Emergency Relief ("SER") prevents serious harm to individuals and families by assisting applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101, p. 1. In order to receive benefits for mortgage assistance applicants must show that the housing is affordable based upon their current income. Home ownership services payments are only issued to save a home threatened with loss due to Mortgage foreclosure. The lifetime home ownership services maximum is \$2,000. The lifetime maximum is the combined cumulative total of all home ownership service payments. Individual services (house payments, property taxes, etc.) do not have separate lifetime maximums.

The total housing obligation cannot exceed 75% of the group's total net countable income. ERM 207.

ERM 207 provides direction as to the action which must be taken by the Department to determine eligibility for SER housing assistance. ERM 207 provides:

Authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. An 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.

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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.

In order to determine eligibility for SER the department must determine net countable income. The department is required to look at the 30 day period immediately following the date the department received the application. ERM 206 page 1.

In this case the Claimant indicated that he had no income for the 30 day period immediately following the date the department received the SER application. This answer contained in the application was used by the Department when computing the Claimant's budget and clearly caused the Department to determine that the Claimant's housing was not affordable because he had no income.

Based upon the Claimant's information provided with the application the Department correctly concluded that the Claimant anticipated having no income at the time of the application for the thirty day period from the date of filing of the application. See Application dated June 18, 2010, Page 3. The Department had no other information to base its decision upon other than what was provided by the claimant in his application for SER mortgage relief and thus the action of the Department denying the application was correct and must be affirmed.

The Administrative Law Judge is sympathetic to the Claimant's plight of losing his home, however the Department properly followed and applied the policy when determining that based on the Claimant's lack of income, the home was not affordable and thus the Department's decision must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was correct in the denial of SER benefits, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 11/29/2010

Date Mailed: 11/29/2010

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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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