

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],

Claimant

Reg. No: 2010-52788

Issue No: 5012

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

October 7, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 held on October 7, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's State Emergency Relief (SER) application because the housing was not affordable?

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 SER assistance with a security deposit and first month's rent on July 26, 2010. (Department Exhibit 1)
2. The claimant requested \$450 for a security deposit and \$300 for first months rent. (Department Exhibit 3)

3. The department denied the SER request, indicating the housing was not affordable. (Department Exhibit 4)

4. The claimant submitted a hearing request on August 13, 2010.

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).

Department policy states:

HOUSING AFFORDABILITY

DEPARTMENT POLICY

Housing affordability is a condition of eligibility for 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. ERM, Item 207, p. 1.

Requirements

In this item, “total housing obligation” means the total amount the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. Renters can have a higher “total housing obligation” if heat, electricity and/or water/cooking gas are included.

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.

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, Item 207, p. 1.

Affordability Calculation

Determine whether an SER group meets the Housing Affordability requirement:

- Multiply the group's total net countable income by 75%. The result is the maximum "total housing obligation" the group can have, based on their income, and be eligible for SER housing services, and
- Refer to the table at the end of this item for any increases in the basic 75% test if the group is renting. Heat, electric or water/cooking gas is included in the rent. Multiply the resulting percentage by the group's total net countable income. The result is the absolute "total housing obligation" the group can have and be eligible for SER housing services. ERM, Item 207, p. 1.

INCREASES IN THE BASIC 75% HOUSING COST STANDARD

Note: Utility included in the rent cost.

Percentage added to basic 75% housing standard:

Heat	15%
Electric	5%
Water or Cooking gas (or both)	5%

ERM, Item 207, p. 2.

The claimant is disputing the department's determination to deny her SER application.

The department denied the claimant's request on August 6, 2010, indicating that the housing was not affordable. However, in reviewing the department's SER budget, it is clear that the department did not use the correct figures.

The SER budget that the department faxed to this Administrative Law Judge does include the requested \$300 in monthly rent, but also includes a mortgage payment of \$457.19. However, this should not have been included as the house was foreclosed and the claimant was not paying any further mortgage payments. This is the situation that caused the housing emergency.

Thus, the department shall rebudget the claimant's SER request, removing the mortgage payment and only including the requested rent obligation of \$300.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly budgeted the claimant's SER request.

Accordingly, the department's determination is REVERSED. The department shall:

1. Rebudget the claimant's SER request, ensuring only the rent expense is included (not the mortgage payment).
2. Issue the claimant a new Decision Notice and issue the claimant SER assistance if approved.

SO ORDERED.

/s/ _____
Suzanne L. Morris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 11, 2010

Date Mailed: October 13, 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.

SLM

cc: