

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.: 2010-10261
Issue No.: 5023
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 23, 2010
DHS County: Wayne (49)

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 September 23, 2010. Claimant appeared and testified.

[REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant was entitled to State Emergency Relief (SER) benefits of \$410 on July 23, 2009?

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 about December 2008, Claimant applied for SER benefits for relocation expenses to rent a residence at [REDACTED].
2. On December 26, 2008, DHS issued a check in the amount of \$410 to the State of Michigan in payment of unpaid taxes owed by [REDACTED].
3. [REDACTED] never permitted Claimant to take possession of the premises.

4. Claimant informed DHS that he was not permitted to take possession of the property, notwithstanding the fact that DHS had issued a \$410 check.
5. DHS informed Claimant that the \$410 check would be taken care of.
6. On July 23, 2009, Claimant applied for SER benefits for relocation expenses to rent a residence at [REDACTED].
7. On August 28, 2009, DHS denied relocation benefits to Claimant and stated that the reason for the denial was, "You have reached the allowable cap(s) for the requested service(s). ERM 301, 302, 304."
8. On November 18, 2009, Claimant filed a request for a hearing with DHS.

CONCLUSIONS OF LAW

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

I begin my review of DHS' action in this case with an examination of the Application Notice dated August 28, 2009. This Notice is DHS' initial statement of the action it took and why it took such action.

In the August 28, 2009, denial of SER to Claimant, DHS stated three ERM Items as its authority: ERM 301, 302 and 304. I researched these three Items and learned that they are titled, "Energy Services," "Utility Services," and "Home Ownership Services and Home Repairs," respectively. I determine that DHS erred in relying on these ERM sections, as they have no bearing in a case where relocation services are requested. I, therefore, determine that DHS' August 28, 2009, denial has no basis in law and must be reversed for that reason.

Second, I will review ERM Item 303, "Relocation Services," cited by DHS to the Administrative Law Judge in its November 24, 2009, Hearing Summary, which is DHS' written response to Claimant's hearing request.

The "Relocation Services" section of ERM initially states that the Department policy is:

DEPARTMENT POLICY

State Emergency Relief (SER) **assists individuals and families** by providing money for rent, security deposits, and moving expenses. (Bold print added for emphasis.) ERM 303, p. 1.

Based on this Department Policy, I determine that the December 26, 2008, tax offset payment to the State of Michigan for the unpaid taxes of [REDACTED], did not assist individuals and families as required by Department Policy. Accordingly, as the check issued never accrued to the benefit of Claimant, I conclude and determine that any and all DHS records and statements indicating that Claimant received the benefit of such monies are erroneous and shall be corrected to reflect the truth of the matter, i.e., that Claimant did not receive \$410, or the benefit of \$410, on or about December 26, 2008.

Third, and last, I will review ERM 303, pages 4 and 6, to determine if DHS acted consistent with its own policy as to how many times a client may receive SER relocation benefits.

Page 4 of the "Relocation Services" policy states as follows:

PAYMENT AUTHORIZATION

Issue the amount the SER group needs to keep or obtain permanent shelter, up to the amounts in the Issuance Maximums for Relocation Services at the end of this item.

Note: Do not authorize SER for relocation if the address of the rental unit appears on the vendor payment restricted addresses list maintained in the local office. *Id.*, p. 4.

I read this policy text section to mean that the maximums given at the end of the policy section are the maximums for just one single relocation issuance. I read this section to mean that a client can receive additional issuances for relocation services every time she or he is otherwise qualified. I do not read this paragraph to mean that the maximums prohibit further issuances to a client during any particular time period, such as twice a month, once a month, once a year, once in a fiscal year, or once in a lifetime. These time periods are specified in many other sections of the DHS manuals, but I find no time specification in ERM 303.

Having determined that the text of ERM 303 does not limit relocation services in any time period, I next turn to the chart of SER maximum monies for family groups of 1, 2, 3, 4, 5, and 6 or more. This chart is on page 6, at the end of ERM 303, as explained on

page 4 cited above. If the chart presents a time period for issuances, then DHS is required to abide by it, even if it is not stated on page 4.

This chart, "Issuance Maximums for Relocation Services," indicates that, for a "SER Group Size" of one person, the "Relocation Services Maximum Payment *Per Issuance*" is \$410 (italics added for emphasis). I conclude that, according to this DHS chart, which is a part of DHS policy, Claimant is entitled to \$410 for *every occasion* for which he qualifies for relocation services. I conclude and determine that the language of the chart on page 6 is consistent with the policy on page 4.

Having reviewed pages 4 and 6 of the policy, and having read ERM 303 in its entirety, I find no limitations in ERM 303 that limit a client to only one issuance in a fiscal year of the State of Michigan (October 1-September 30), as DHS asserts. I base my reading on the fact that the page 6 chart states nothing about a time period, nor does it state anywhere in ERM 303 that such a time period exists. I, therefore, conclude and determine that DHS erred in denying Claimant SER benefits for the July 23, 2009, application, regardless of whether he received or did not receive \$410 SER benefits on December 26, 2008.

I conclude that DHS' action shall be REVERSED. DHS shall delete the erroneous credit of \$410 against Claimant's record from December 26, 2008, and process his July 23, 2009, SER application in accordance with all DHS policies and procedures. DHS may take any and all necessary action in this case to protect Claimant's rights, including the process of filing for an Exception and the use of Emergency Services funds.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS did not act in accordance with its own policies and shall be REVERSED. DHS is ORDERED to remove the December 26, 2008, issuance from Claimant's file, and process his July 23, 2009, SER application in accordance with all DHS policies and procedures, including the use of Emergency Services Exception monies to assist Claimant if necessary.



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

Date Signed: September 24, 2010

2010-10261/JL

Date Mailed: September 24, 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:

