

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. 201010357
Issue No. 5026
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: September 8, 2010
Office: Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 September 8, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], [REDACTED], appeared and testified.

ISSUES

1. Whether DHS properly denied Claimant's State Emergency Relief (SER) application for assistance with rent and moving expenses.
2. Whether DHS properly processed Claimant's approved emergency services request for assistance with moving expenses.

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 SER on 1/6/09 seeking assistance with her first month's rent at a new residence, and the costs associated with moving.
2. Claimant contended she was required to move for medical related reasons.
3. DHS denied Claimant's SER application on 4/24/09 due to Claimant's failure to assert an emergency as allowable by DHS regulations.
4. Despite the DHS denial, DHS approved Claimant for \$200 in reimbursement for Claimant's moving costs through emergency service funds.

5. Claimant submitted proof of her \$200 in moving expenses to DHS.
6. For unknown bureaucratic reasons, DHS has still yet to reimburse Claimant for the \$200 she incurred in moving expenses.
7. Claimant requested a hearing on 7/30/09 disputing the DHS denial of her SER application for rent assistance and the failure by DHS to reimburse her for \$200 in moving expenses.

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 (ERM).

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 at 1. SER applications involving relocation may only be approved if all other SER criteria are met and one of the following circumstances exists:

- the SER group is homeless;
- the SER group is imminently homeless;
- adequate housing is needed to avoid foster care placement of a child;
- it is determined that a family must be relocated from unsafe housing for the protection of children
- SER group receives final notice to vacate condemned housing
- it is determined that the SER group lives in high-energy housing that cannot be rehabilitated. *Id. at 3.*

None of the above circumstances apply to Claimant's housing situation. Claimant contended that she had physical limitations which made her residence at the time of her SER application very impractical. Claimant contended that her physician ordered her to find a residence which was more suitable for her physical limitations. Though Claimant may have considered her circumstances an emergency, her circumstances are not an emergency as defined by DHS regulations. It is found that DHS properly denied Claimant's SER application due to Claimant's failure to assert an emergency as defined by SER regulations.

Though DHS denied Claimant's SER application, DHS went above and beyond their policy requirements for Claimant. DHS sought emergency service (ES) funds to assist Claimant with her relocation expenses. ES funds are discretionary funds allocated to

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each local office to provide assistance when an applicant does not meet SER eligibility. ERM 209 at 1.

As discretionary funds, the DHS determination as to whether ES funds are or are not issued is not an appropriate basis for administrative review. Claimant's circumstances do make the issue one appropriate for administrative review. It was not disputed that DHS approved Claimant for \$200 in reimbursement of relocation expenses. It was not disputed that Claimant incurred \$200 in expenses in relocating residences by paying for a moving truck. It was not disputed that Claimant submitted verification of her expense to DHS.

The decision to approve ES funds for reimbursements is not an appropriate basis for administrative review. As previously stated, such approvals are within the discretion of DHS. However, it is less clear whether DHS has discretion to fail to honor an already approved ES fund payment. The undersigned is inclined to find that DHS has discretion in approving clients for ES funds but no discretion to failing to honor the payment without any legitimate reason. It is found that Claimant is entitled to \$200 in reimbursement of moving expenses based on documentation previously submitted by Claimant.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED in part. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's SER application for assistance with rent.

The actions taken by DHS are partially REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly withheld a previously approved payment of \$200 in ES funds for reimbursement of moving expenses. It is ordered that DHS process Claimant's \$200 ES funds payment.

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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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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