

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.: 201012093

Issue No.: 5032

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 25, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 received by the Department on August 4, 2009. After due notice, an in person hearing was held on March 25, 2010 in Wayne County. The Claimant appeared and testified. The Claimant was represented by [REDACTED]. [REDACTED] ES and [REDACTED] FIM appeared on behalf of the Department.

ISSUE

Whether the Department properly processed and denied the Claimant's 7/9/09 State Emergency Relief ("SER") application.

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 appeared at the Department on 7/9/09 to request State Emergency Relief benefits for fumigation of her apartment.
2. At the time of the request, Claimant was still living in the Ecorse Public Housing.
3. Claimant testified that she had a pest problem in her apartment building and had tried unsuccessfully to get her landlord to remedy the situation.
4. Claimant testified that at the time of the request, she was pursuing legal action against the Ecorse Public Housing and had withheld some rent until pending her court date.
5. Claimant also testified that due to medical issues from the pests, she spent the rent money on medical treatment.
6. Claimant was receiving full Medicaid at the time of the SER request.
7. The Department testified that in a discussion at the time of the request, the caseworker told Claimant that fumigation was not a covered SER service and that Claimant would not be eligible for SER funds. As a result, the Claimant's application was not completed or officially denied.
8. The Claimant testified that she is now homeless as the pest problems drove her from her apartment. As a result, Claimant filed another SER application requesting relocation services.
9. On August 4, 2010, the Department received the Claimant's Request for Hearing protesting the denial of the SER request/application.

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. MCL 400.7001-400.7049. The Department of Human Services’ policies are found in the State Emergency Relief Manual (“ERM”).

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. SER funds for relocation are awarded if all requirements are met and either the SER group is homeless or a court summons, order, or judgment was issued which will result in the SER group becoming homeless. Homeless includes persons living in an emergency shelter or motel, in HUD-funded transitional housing for homeless persons who originally came from the street, in a car on the street or in a place unfit for human habitation and there is no housing they can return to. ERM 303, pp. 1-2.

In the majority of cases, SER is sufficient to resolve threats to health and safety. However, due to the nature of emergencies and variations in SER group circumstances, unusually situations may exist. Emergency Service Funds (ES funds) are discretionary funds allocated to each local office to provide assistance when an applicant does not meet SER eligibility. ES funds may be used to expand payment maximums if ALL other eligibility requirements are met. ES funds may NOT be used to:

- Establish SER eligibility for non-energy-related services;
- Pay asset copayments;

- Pay energy Services.

ERM 209. Non energy-related repairs, including extermination services, are available for client-owned housing. Authorization is made if the repair is essential remove a direct threat to health or safety. ERM 304, p. 2. There is no similar provision for individuals who are renting.

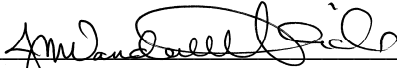
In this case, the Claimant was still living in the Ecorse Public Housing at the time of the request for SER benefits. Claimant was not homeless and did not have a court judgment rendering her homeless at the time of application. ERM 303 specifically includes help for homeless individuals who came from housing unfit for habitation. While the living conditions of Claimant's rental were hazardous, Claimant chose not to leave the premises at the time of the initial request for SER. Furthermore, fumigation services are not covered under State Emergency Relief for renters, only those who own a home. Presumably, the policy makers determined that an individual who was renting could leave the situation and look for another rental while a home owner is significantly more tied to the housing investment.

The Department should have accepted Claimant's SER application, processed it and issued a denial, rather than just explaining to the Claimant that she did not qualify. Regardless, Claimant did not meet the requirements for SER funds. Accordingly, the Department's decision to deny SER funds is Affirmed.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that there was sufficient evidence to deny Claimant SER benefits based on

the fact that Claimant was not homeless. Therefore, the Department's denial of Claimant's 7/9/09 SER request is AFFIRMED.

/s/ 

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 19, 2010

Date Mailed: April 21, 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.

JV/hw

cc:

