

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.: 2010-12153
Issue Nos.: 5026, 5030
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 25, 2010
DHS County: Oakland (02)

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 August 25, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied State Emergency Relief (SER) relocation assistance benefits to Claimant?

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. On September 3, 2009, Claimant applied for SER relocation assistance. He requested assistance for a security deposit and his first month's rent.
2. On or about September 5, 2009, Claimant took possession of the residence.
3. DHS gave as its reason for the denial, "Denied because he resolved his emergency when he moved in."
4. DHS did not rely on ERM Item 303, "Relocation Services," in denying Claimant's application.
5. On September 27, 2009, Claimant filed a hearing request 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 and procedures are found online in ERM at www.michigan.gov/dhs-manuals.

DHS in its Hearing Summary states that it relied on ERM 103 in taking this action. I have reviewed ERM 103, "Application Procedures," in its entirety, and I have reviewed all of the testimony and evidence in this case in reaching my decision. The ERM 103 version dated September 3, 2009, (not available online) was in effect on the date Claimant applied for SER and states as follows:

Applicants may file State Emergency Relief (SER) applications in any county in Michigan....Any person has the right to apply for SER. ERM 103, effective May 1, 2009, p. 1.

As I understand DHS' action in this case, DHS believed that Claimant took possession of the rental property while his application was pending or possibly even before he applied and, therefore, that he was not eligible to apply for SER benefits. I cannot find anything in ERM 103 that indicates that Claimant is ineligible to apply for SER benefits merely because he has moved into a rental property.

I determine that DHS applied the incorrect legal standard in this case. The appropriate legal standard is the policy and procedure presented in ERM 303, "Relocation Services." The DHS policy regarding relocation is as follows, and I quote from the version in effect on September 3, 2009:

State Emergency Relief (SER) assists individuals and families by providing money for rent, security deposits, and moving expenses. ERM 303, effective May 1, 2009, p. 1.

I conclude that Claimant's application was not reviewed using the correct legal standard for relocation expenses. I determine that DHS' denial of Claimant's application shall be REVERSED, and Claimant's application shall be processed in accordance with the appropriate policies and procedures and all agency policies and procedures in effect at the relevant time.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS erred in applying the incorrect legal standard in processing Claimant's application, and denied it without consideration of the correct legal standard. DHS' action is REVERSED. DHS is ordered to process Claimant's application in accordance with all DHS policies and procedures.



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

Date Signed: August 26, 2010

Date Mailed: August 26, 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:

