

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:



Reg. No.: 2010 21223
Issue No.: 5000/5003/5013
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: June 24, 2010
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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 June 24, 2010. The claimant appeared and testified. [REDACTED], FIM and [REDACTED], FIS appeared on behalf of the Department.

ISSUE

Whether the Department failed to properly process the Claimant's application for State Emergency Relief with regard to her rent?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds a material fact:

1. The Claimant applied for State Emergency Relief (SER) benefits on October 27, 2009. The Claimant applied for Rent assistance noting an eviction, an Electricity shut off notice and heating assistance. Exhibit 1
2. The Claimant provided a Judgment of Eviction with her application, and gave it to her case worker. The judgment was dated October 23, 2009 and indicated arrears of \$450, one months rent. Exhibit 2
3. The Department testified that it did not have the Judgment of Eviction in its file.

4. The Department never processed the Claimant's application for rent assistance.
5. The Department denied the Claimant's application for SER with regard to heat and electricity on October 29, 2009. Exhibit 3
6. On October 29, the Department properly determined that the Claimant was not eligible for Heat and Light assistance as the Claimant did not meet the needs requirement based upon her past 6 months payment history for those utilities. Exhibit 4
7. The Department misplaced Claimant's Judgment of Eviction.
8. The Claimant applied for assistance with her rent after her unemployment ended in October.
9. The Claimant was ultimately evicted from the apartment for non payment of rent.
10. The amount of the rent due at the time of the Claimant's SER application was \$450.
11. Claimant objected to not hearing from the Department regarding her SER application for rent assistance and filed her request for a hearing on February 4, 2010. The Department received the Claimant's Request for Hearing on February 17, 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 (formerly known as the Family Independence Agency) policies are found in the State Emergency Relief Manual (SER).

Based on the Findings of Fact it is determined that the Claimant's request for a hearing is timely. BAM 600

The policy governing the eligibility for State Emergency Relief is found in the State Emergency Relief Manual. The policy provides that the state emergency relief is designed to prevent serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101. The requirements are as follows:

- Residence in the state of Michigan is not required. SER serves all persons physically present in Michigan.
- In addition the applicants must;
- complete the application process
- meet financial eligibility requirements
- Have an emergency which threatens health or safety and can be resolved through issuance of SER
- Take action within their ability to help themselves, I eat. Obtain potential resources and/or apply for assistance
- Not have caused the emergency
- Cooperate in providing information about income, assets, living arrangements and other persons living in the home
- Deny SER services for applicants who fail to meet any of the above requirements. ERM 102

The Department's determination denying the Claimant's application for heat and electric assistance has been reviewed and it is determined that the request for assistance was properly denied based on the utility payment documents relied upon by the Department and the budget which it prepared in accordance with its policy. ERM 301 and 302. Exhibit 3

In the subject case, the Claimant's application for rent assistance was never processed by the Department or denied by the Department. The application was left in limbo even though an application had been filed and a judgment of eviction provided to the Department by the Claimant. The Claimant testified credibly under oath that she filed her application for rent assistance and personally handed her case worker the Judgment of Eviction. The Claimant faxed a copy of the notice to add to the record shortly after the hearing concluded and thus it must be found that the Department lost or misplaced the Judgment given to it by the Claimant and that the Department should have processed the application.

The Claimant's filed for a hearing as she was never advised by the Department whether her application was approved or denied. The bottom line was the application was never processed. Under these circumstances, it must be found that an SER application for rent assistance was filed by the claimant and that it was either lost or misplaced by the Department and never processed.

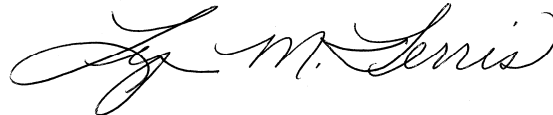
Accordingly, the Department shall reopen the original application and commence processing the Claimant's SER application for the rent in question and shall determine the Claimant's eligibility for these SER benefits at the time of the application. Claimant shall provide any necessary verification information if any is necessary to process the application to determine the claimant's eligibility pursuant to Department policy.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the Department failed to process an application which was filed and, thus, is required to reopen and commence processing the reinstated application for SER rent assistance.

Accordingly, it is ORDERED:

1. The Department shall reopen and commence processing the Claimant's SER application for rent assistance dated October 27, 2009. The Department shall deem the Claimant as having already provided it with the Judgment of Eviction dated October 23, 2009 referenced herein as Exhibit 2. The application shall be processed as of the date of the Claimant's original filing of the SER application.
2. The Claimant is required to provide the Department with any additional information it requires to process the application in accordance with Department policy.
3. The Department shall determine the eligibility of the Claimant's application for SER rent assistance benefits as of the date of the original application and shall either grant or deny the Claimant's request in accordance with the policies and requirements contained in The State Emergency Relief Manual.



Lynn Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/07/2010

Date Mailed: 07/07/2010

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.

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