

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: 201026290
Issue No: 5016, 5032
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 12, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on October 12, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly deny Claimant's November 24, 2009 application for State Emergency Relief (SER) with rent and utilities?

Did the Department of Human Services properly deny Claimant's December 21, 2009 application for State Emergency Relief (SER) with rent and utilities?

FINDINGS OF FACT

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

1. On November 24, 2009 Claimant submitted an application for State Emergency Relief (SER) for a [REDACTED] rent payment and a [REDACTED] utilities payment.
2. On December 9, 2009 Claimant was sent a State Emergency Relief Decision Notice (DHS-1419) which stated she was approved for a payment of [REDACTED] on her utility bill for the period 11/24/09 – 12/23/09 if she showed proof of a payment by her of [REDACTED].

3. On December 10, 2009 Claimant's mother made a [REDACTED] payment on the utility bill.
4. On December 18, 2009 the Department denied the application for rent payment because Claimant had not provided an eviction notice and the amount requested was more than her monthly income. The application for utilities payment was denied because there was no proof of a [REDACTED] payment by Claimant.
5. On December 21, 2009 Claimant submitted a request for hearing on the December 9, 2009 notice.
6. On December 21, 2009 Claimant submitted another application for State Emergency Relief (SER) for a [REDACTED] rent payment and a [REDACTED] utilities payment.
7. On December 22, 2009 Claimant was sent an Application Notice (DHS-1150) which stated the December 21, 2009 SER application was denied because it was incomplete. Claimant contacted the Department and provided the missing information.
8. January 20, 2010 Claimant submitted a request for hearing on the December 22, 2009 notice.
9. On February 3, 2010 Claimant was sent a State Emergency Relief Decision Notice (DHS-1419) which stated that the utility payment was denied because the address of the bill was not connected to Claimant's address and the rent payment was denied because Claimant had not provided a court order of eviction.

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 (DHS or department) policies are found in the State Emergency Relief Manual (SER).

Department policy provides the following guidance for case workers relevant to Claimant's rent assistance request. The Department's policies are available on the internet through the Department's website.

ERM 303 RELOCATION SERVICES

POLICY

State Emergency Relief (SER) assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses.

COVERED SERVICES

Accept the decision of the SER group regarding use of the relocation funds authorized. The issuance amount must resolve the group's shelter emergency. Authorize any combination of the following services:

- First month's rent.
- Rent arrearage.
 - Mobile home lot rent for owners or purchasers is a Home ownership service found in ERM 304.
 - Mobile home lot rent for renters is a relocation service covered by this Item.
- Security deposit (if required).
- Moving expenses (to relocate household effects).

ELIGIBILITY REQUIREMENTS

Authorize relocation services only if one of the following circumstances exists and all other SER criteria are met.

Homeless The SER group is homeless.

Legal Notice • A court summons, order, or judgment was issued which will result in the SER group becoming homeless.

Foster Care • The SER group needs adequate housing to avoid a foster care placement or before a child or children can come home from foster care.

Unsafe Housing • A DHS services worker or DHS specialist, with supervisory approval, determines the family must be relocated from unsafe housing for the protection of the children.

Condemned Housing • The SER group receives final written notice to vacate condemned housing from a local public agency authorized to issue such an order.

High Energy • The energy multi-disciplinary team has identified the group as living in high energy housing that cannot be rehabilitated.

ERM 207 HOUSING AFFORDABILITY

DEPARTMENT POLICY

Housing affordability is a condition of eligibility for State Emergency Relief (SER) and applies only to Relocation Services (ERM 303) and Home Ownership Services and Home Repairs (ERM 304). Housing affordability does not apply to other SER services.

Requirements In this item, “total housing obligation” means the total amount the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. Renters can have a higher “total housing obligation” if heat, electricity and/or water/cooking gas are included.

Authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized.

Deny SER if the group does not have sufficient income to meet their total housing obligation. The total housing obligation cannot exceed 75% of the group's total net countable income.

During this hearing Claimant testified that she did not ever get a court order of eviction and had submitted the Demand for Possession notice she did get to try and avoid getting evicted. The policy above states that eligibility requires a summons, order, or judgment which **WILL** (not might) result in homelessness. Claimant was not eligible for rent assistance on either of the applications she submitted.

In addition, Claimant testified that she was only receiving [REDACTED] per month at the time of both applications. On the applications Claimant indicated that her rent was [REDACTED] per month. In accordance with the policy above Claimant was also not eligible for rent assistance because her housing was not affordable.

Department policy provides the following guidance for case workers relevant to Claimant's utility payment request. The Department's policies are available on the internet through the Department's website.

ERM 301 ENERGY SERVICES

DEPARTMENT POLICY

Low-income households who meet eligibility requirements in this item can receive assistance to help them meet their household heat and electric costs. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP).

COVERED SERVICES

Heating, Electric or Deliverable Fuels

When the group's heating or electric service for their current residence is in threat of or is already off and service must be restored, payment may be authorized to the provider up to the fiscal year cap. Payment must resolve the emergency by restoring or continuing the service for at least 30 days.

Billing Address

Except for categorical eligibility, a bill does not have to be in the client's name, but it must be connected to the group's current address. If the bill, including old or transferred balances, must be paid to start or maintain service at the current or new address, payment may be authorized payment up to the fiscal year cap, as long as the payment resolves the emergency.

At this hearing it was determined that Claimant's residential gas and electric service was billed to her mother. The utility bills which Claimant had submitted showed her mother's name and address. The utility bill stated that if the account balance as of October 20, 2009 (██████████) was not paid now that the service would be shut off on or after December 1, 2009. An online inquiry by the Department made on February 3, 2010 does show Claimant's address as the site address even though the account is in her mother's name.

Also at this hearing it was determined that on December 10, 2009, Claimant's mother made a ██████ payment toward the amount owed from Claimant's address of the utilities billed to Claimant's mother. Claimant and her mother testified that the service had been shut off and her mother made the payment in order to get the service back on.

In this case Claimant's November 24, 2009 application was approved for a ██████ payment to prevent shut off. That is the amount the utility bill indicated was necessary to prevent shut off. Claimant was required to show that she had paid ██████ of the ██████ by December 23, 2009, and then the Department would pay the remaining ██████ to prevent shut off. When Claimant's mother paid ██████, the emergency was resolved. Once the ██████ was paid Claimant was no longer at risk of her utility service being shut off. In accordance with the policy above, Claimant was not eligible for a utility payment anymore.

When Claimant submitted another application on December 21, 2009 there was no documentation showing she was not at risk of her utilities being shut off. That made her ineligible.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly denied Claimant's November 24, 2009 and December 21, 2009 applications for State Emergency Relief (SER) with rent and utilities.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHeld.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 18, 2010

Date Mailed: October 18, 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.

GFH/vc

cc:

[REDACTED]