

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.: 2010-37492
Issue No.: 5025
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 18, 2010
DHS County: Wayne (15)

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 October 18, 2010. Claimant appeared and testified. [REDACTED]

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

ISSUE

Whether Claimant is eligible for State Emergency Relief (SER) Home Ownership Services benefits?

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. Prior to February 25, 2010, Claimant requested SER benefits to help pay unpaid property taxes on her home.
2. Claimant's property taxes were in arrears.
3. Claimant property was not in tax delinquency, forfeiture or foreclosure status.
4. On February 25, 2010, Claimant was denied SER benefits.
5. On March 4, 2010, 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 in the Emergency Relief Manual (ERM). This manual is available online at www.michigan.gov/dhs-manuals.

The appropriate DHS manual section in this case is ERM 304, "Home Ownership Services and Home Repairs." The version of this section in effect on February 25, 2010, is the version that was adopted on September 1, 2009. The September 2009 version is not available online, but the current version, adopted June 1, 2010, contains the same property tax policies as the September 2009 version. The current, June 2010 version is available online. *Id.*

In this opinion, I will refer to the September 2009 version of ERM 304. ERM 304 states:

Home Ownership Services

Home ownership services payments are only issued to save a home threatened with loss due to:

- Mortgage foreclosure.
- Land contract forfeiture.
- Tax foreclosure or sale.
- Court-ordered eviction of a mobile home from land or a mobile home park.
- Repossession for failure to meet an installment loan payment for a mobile home. ERM 304, p. 1 of 6.

ERM 304 further states on pages 3-4:

Eligibility Requirements

Issue Home Ownership Services payments only to save a home threatened with loss due to mortgage foreclosure, land contract forfeiture, tax foreclosure, or court ordered eviction of a mobile home from land or a mobile home park.

...

Pay only the minimum amount required to resolve the tax emergency. Do not pay until loss of the home is imminent. See Verification below. (This only applies to home ownership for taxes.) *Id.*, pp. 3-4 of 6.

Following through to the Verification section of ERM 304 referred to in the Eligibility Requirements, the manual states that two items of verification are required:

Property Tax Sale

- Statement from taxing authority verifying total tax arrearage, **and**
- Notice scheduling a judicial foreclosure hearing. This occurs one year after forfeiture – generally in February. *Id.*, p. 5 of 6. (Bold print in original.)

I conclude that these three portions of ERM 304 make it abundantly clear that DHS may provide property tax assistance only after a judicial foreclosure is scheduled by a Michigan court. The testimony in this case is undisputed that Claimant was in arrears on her taxes, but she was not yet in delinquency status, she was not in forfeiture status, and, most importantly, she was not in foreclosure status. I conclude that Michigan law prohibits DHS from providing property tax assistance solely for arrearages when there is no pending judicial foreclosure action.

I find and conclude that Claimant is not eligible for SER property tax assistance under the law. DHS' action is AFFIRMED. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that DHS acted properly in this matter. DHS' action is AFFIRMED. DHS need take no further action in this matter.



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

Date Signed: October 20, 2010

Date Mailed: October 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.

JL/pf

cc:

