

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.: 2010-38933
Issue Nos.: 5003, 5013
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 18, 2010
DHS County: Wayne (19)

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

ISSUE

Whether DHS properly denied Claimant State Emergency Relief (SER) relocation 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. In October, 2009, Claimant and her two children lived with [REDACTED].
2. At that time, [REDACTED] was serving a one-year probation sentence for domestic violence against Claimant.
3. In November 2009, Claimant was again a victim of domestic violence perpetrated by [REDACTED], and moved out of the [REDACTED] residence with her children to escape domestic violence.
4. Claimant moved in with her aunt, [REDACTED].

5. On December 17, 2009, [REDACTED], landlord at [REDACTED], faxed a verification form to DHS, indicating that Claimant was homeless and \$787.50 was required in order for an apartment to be rented to her.
6. On December 18, 2009, Claimant applied for SER relocation services benefits.
7. Claimant told DHS she was currently living with her aunt in [REDACTED] to escape domestic violence, and that the [REDACTED] address in [REDACTED] was only her mailing address.
8. On January 4, 2010, Claimant received a DHS letter at her aunt's apartment in [REDACTED], approving \$620 relocation benefits on the condition that Claimant pay the remaining \$167.50 needed to move into an apartment at [REDACTED] by January 16, 2010.
9. On or about January 6, 2010, Claimant borrowed the full amount she needed, \$787.50, from her aunt, [REDACTED], and moved into the [REDACTED].
10. On January 8, 2010, Claimant submitted verification to DHS that she had paid her portion of the shelter obligation.
11. On March 3, 2010, Claimant filed a request with DHS for a hearing with the State Office of Administrative Hearings and Rules.
12. On March 8, 2010, DHS sent Claimant a business-style letter, not a DHS notice form, denying SER benefits.

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 for administering the program are found in the State Emergency Relief Manual (ERM). This manual is available online at www.michigan.gov/dhs-manuals.

In this case, the legal authority for the DHS' action is ERM 303, "Relocation Services," which was cited by DHS in the Hearing Summary. In order to be eligible for SER relocation benefits, the claimant must be a "homeless" person as ERM 303 defines homelessness. This definition specifies that:

Groups who voluntarily left their home, but can return without a threat to their health or safety, are not homeless. ERM 303, p. 1 of 6.

I read this sentence to mean that a family who can return home *only* with threat to health or safety, *is* homeless. I find and conclude that Claimant is such a person and does meet the eligibility requirements of DHS policies and procedures. *Id.*

While Claimant may indeed be eligible as a homeless person, I must next continue through the text of ERM 303 to determine if Claimant meets all of the other criteria. ERM next addresses the documentation of eligibility that is required for relocation services. Pages 2 and 3 specify that:

Group Living With Friends or Relatives

A group living with friends or relatives is not homeless, even if the arrangement is temporary unless one of the situations below exists:

...

- The group is living with other persons to escape a domestic violence situation. *Id.*, pp. 2-3 of 6.

Based on all of the testimony and the evidence in this case taken as a whole, and my findings of fact above, I find and conclude that Claimant was living with relatives in order to escape a domestic violence situation, and Claimant does, therefore, meet this ERM requirement as well.

Continuing on through ERM 303, I find there is a third duty, a verification requirement which Claimant must meet. The claimant who seeks relocation services to escape domestic violence must state to DHS that she is living with others to escape domestic violence. I find that Claimant gave credible and un rebutted testimony that she left her home to escape domestic violence. Claimant testified that she was the lessee or tenant at the [REDACTED] address and left after domestic violence occurred. The record contains the Order of Probation from September 2009 for [REDACTED] based on domestic violence. The record also contains the Personal Protection Order obtained by Claimant on January 26, 2010 against [REDACTED], providing additional documentary evidence corroborating Claimant's testimony. These items and all of the evidence and testimony in this case lead me to conclude that Claimant has clearly met the verification requirement of ERM 303.

I have considered the DHS' reasons for denying Claimant SER benefits, and I do not find them to be supportable. First, DHS in the Hearing Summary indicates that Claimant was notified of the denial of SER benefits on February 3, 2010, but Claimant did not receive a denial notice. Moreover, the only possible denial notice in the record is dated March 8, 2010, one month after DHS claims that it notified Claimant. I find that DHS has not explained this inconsistency. The inconsistency is further confused by the fact that Claimant received an approval letter, in a timely fashion, on January 4, 2010. On this record, I cannot find that the DHS' action was taken in accordance with its policy and procedure.

DHS' position in this case is inconsistent in another respect as well. One of these documents, the "Bridges SER- Notice Reasons," states that the reason for the denial is that the "30 day (sic) authorization period has ended for SER." This reason is stated three times on the printout. This is not the same reason stated in the Hearing Summary and in DHS testimony at the hearing. I find that the SER Notice is the most reliable statement of the DHS' reasons for its actions, because it was issued in the ordinary course of business and because the Notice states the reason clearly, and it states it three times, once for each member of the family group. The SER Notice could have stated that Claimant was ineligible, but it does not say this. Accordingly, I find and conclude that the real reason that Claimant's benefits were denied was because they were not processed within the required eligibility period of thirty days. Department Exhibit 1, p. 5B.

In conclusion, I find and decide that DHS erred in denying SER relocation services benefits to Claimant. DHS is REVERSED. DHS is ORDERED to reopen and reprocess Claimant's application for SER benefits in accordance with all DHS policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law decides that DHS is REVERSED. DHS is ORDERED to reopen and reprocess Claimant's application for SER relocation services benefits, in accordance with DHS policy and procedure.



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:

