

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.: 2010-47247
Issue No.: 5026
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 29, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Lynn M. 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 November 29, 2010. The claimant appeared and testified. [REDACTED], FIS and [REDACTED], FIM appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's SER application for Rent assistance due to housing non affordability?

FINDINGS OF FACT

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

1. The Claimant applied for SER State Emergency relief on May 27, 2010. Exhibit 1.
2. The Claimant's application was denied by the Department in an SER Decision Notice dated June 4, 2009 because it found the Claimant's housing was not affordable. Exhibit 2
3. The Claimant reported in May 2009 total income for her group of three, RSDI income for herself and son in the amount of \$96.00 each and RSDI SSI for her husband in the amount of \$285.
4. The Claimant's group at the time (May 2009) was also receiving FIP cash assistance in the amount of \$459.

5. The Claimant's group FIP case was closed at the end of June 2009 as the group was not eligible based on their unearned income.
6. The Claimant's case worker closed the Cash Assistance FIP case as the Claimant's group was not entitled to receive the Cash Assistances in light of the RSDI group income which totaled \$477.
7. The Department had to budget the unearned income for the group to determine eligibility for SER using the group income in April 2009, 30 days prior to the application, which consisted of \$96 RSDI for the Claimant and her son (each) and FIP of \$180 for a total of \$372.
8. The Claimant's rent was \$475 per month and she was responsible for electric bill. The department improperly used 75% of the Claimant's income to determine affordability.
9. The Budget as computed by the Department was not correct.
10. The Claimant received \$372 net income in April 2009, which was the month the Department considered when making its determination.
11. The Department properly determined that the Claimant was not entitled to SER assistance for rent as her rent was \$475 per month which was more than the Claimant's income of \$372 even though it may have used the incorrect monthly income and the incorrect month.
12. The Claimant requested a hearing on June 7, 2010 which was received by the department on June 8, 2010 protesting the denial of her application for SER.

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).

State Emergency Relief ("SER") prevents serious harm to individuals and families by assisting applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101, p. 1. In order to receive benefits for mortgage assistance applicants must show that the housing, in this case rent, is affordable based upon their current income.

The total housing obligation cannot exceed 75% of the group's total net countable income however, because the Claimant paid heating expense the Department should have also included and additional 15% when determining the maximum total housing obligation ERM 207, page 2.

ERM 207 provides:

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.

In order to determine eligibility for SER the department must determine net countable income. The department is required to look at the 30 day period immediately following the date the department received the application. ERM 206 page 1. (Emphasis supplied).

The Claimant's application was dated May 27, 2009 and thus the Department should have considered the period covering May 27, 2009 through June 27, 2009 when determining countable income and affordability of rent. During this period the Claimant's group would have received, RSDI for the Claimant and her son for a total of \$192 and SSI received by her spouse in the amount of \$285 for a total of \$477. To determine the Maximum housing expense the Claimant's group could have and still afford the rent is determined by taking the total countable income of \$477 and multiplying it by 90% which yields \$429 per month for rent. In this instance the Department correctly determined that the Claimant's housing was not affordable as the rent exceeded the maximum housing expense.

It must be noted that the Department came to the correct conclusion but did not properly compute the affordability budget as it used the wrong thirty day period, but the same result is reached when using the correct income figure and group size. It should also be noted that the Claimant's FIP cash assistance which the group had previously received for the prior six months ended June 30, 2009 and that the FIP had previously been paid to the group improperly.

Based upon the foregoing analysis it must be found that the Department's denial of the Claimant's SER application was correct and must be affirmed.

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The Administrative Law Judge is sympathetic to the Claimant's plight, however the Department properly followed and applied the policy when determining that based on the Claimant's lack of income, the rent was not affordable and thus the Department's decision must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was correct in the denial of SER benefits, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.



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

Date Signed: 11/30/2010

Date Mailed: 11/30/2010

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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