

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: 201049445
Issue No: 5012
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 22, 2010
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on July 7, 2010. After due notice, a telephone hearing was held on Wednesday, September 22, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's State Emergency Relief (SER) eligibility?

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 submitted a SER application on June 24, 2010.
2. The Claimant has a monthly \$ [REDACTED] mortgage obligation. Department Exhibit 1.
3. The Claimant assumed the mortgage obligation after title in the property was transferred to her through the previous owner's will. Department Exhibit 2.
4. The Claimant receives monthly State Disability Assistance (SDA) in the gross monthly amount of \$ [REDACTED].
5. On June 29, 2010, the Department denied the Claimant's SER application because her housing is not affordable.

6. On July 7, 2010, the Department received the Claimant's request for a hearing, protesting the denial of her SER application.

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. Family Independence Agency (FIA or agency) policies are found in the State Emergency Relief Manual (SER).

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. ERM 304. The following services are covered by this item:

- Home ownership services.
- House payments
- Property taxes and fees.
- Mobile home lot rent for owners or purchasers of mobile homes.
- House insurance premiums that are required pursuant to the terms of a mortgage or land contract. ERM 304.

Housing affordability is a condition of eligibility for State Emergency Relief (SER). ERM 207. Shelter expenses are considered affordable if they are not greater than 75% of net countable income. ERM 207.

The Claimant worked as an in-home attendant until the death of her client. The client designated the Claimant as a beneficiary of his will, which transferred title in his home to the Claimant. The Claimant assumed a mortgage on the property, but found herself unable to afford the payments since her income had stopped.

The Claimant submitted a SER application on June 24, 2010, seeking assistance with her mortgage payment to avoid foreclosure. The Claimant has a monthly mortgage obligation of \$ [REDACTED]. The Claimant receives monthly State Disability Assistance (SDA) in the gross monthly amount of \$ [REDACTED] an amount the Claimant does not dispute. The Department denied the Claimant's SER application because her mortgage obligation is greater than 75% of her net income.

The Claimant argued that SER assistance is necessary for her to avoid homelessness. The Claimant argued that the mortgage obligation is only unaffordable because of late

charges and attorney fees, and that she is unlikely to find housing that is more affordable than this house without receiving additional welfare assistance.

However, the claimant's grievance center is on dissatisfaction with the department's current policy. The claimant's request is not within the scope of authority delegated to this Administrative Law Judge. Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. Michigan Mutual Liability Co. v Baker, 295 Mich 237; 294 NW 168 (1940).

Based on the evidence and testimony available during the hearing, the Department has established that it properly denied the Claimant's SER application because her housing obligation is not affordable.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's SER eligibility.

The Department's SER eligibility determination is AFFIRMED. It is SO ORDERED.

_____/s/

Kevin

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

Date Signed: October 11, 2010

Date Mailed: October 12, 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 60 days of the filing of the original request.

2010-49445/KS

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

KS/alc

cc:

