

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.: 2010-52061
Issue No.: 5012
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 17, 2010
DHS County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37, and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on November 17, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly processed Claimant's applications for State Emergency Relief (SER) relocation services?

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. On June 8, 2010, the 20th District Court of the State of Michigan issued a Judgment of eviction against Claimant, stating that she owed \$2,567.97 to the property owner where she rented housing.
2. Also on June 8, 2010, Claimant submitted an application for SER benefits with DHS. The application stated that her rent was \$775 per month and her income was \$277-\$377 per week wages and Unemployment Insurance (UI) benefits as well.
3. On June 18, 2010, DHS denied Claimant's application, stating that, "Your shelter is not affordable according to SER requirements."
4. DHS did not present its calculation for the Administrative Law Judge to review the housing affordability calculation at the hearing.

5. On June 29, 2010, Claimant applied a second time for SER benefits. The application stated that her rent was \$775 per month, and her income was now \$440 per week and no UI benefits.
6. On July 9, 2010, DHS both granted and denied Claimant's request. The SER Decision Notice states first that Claimant has been awarded \$620 with a copayment of \$1,947.96, and also goes on to state that the request is denied. No reason is stated for the denial.
7. DHS did not present its budget calculation at the hearing.
8. Claimant never received the July 9, 2010, notice.
9. If Claimant had received the notice, she was prepared to submit the entire copayment.
10. On July 13, 2010, Claimant was evicted and incurred emergency shelter expenses of \$506.10 from July 13-27, 2010.
11. On July 19, 2010, Claimant filed a notice of hearing request with DHS.
12. From September 27-October 24, 2010, Claimant's wages were garnished to pay her rent arrearage, in the total amount of \$1,106.74.
13. Claimant has a pending application for SER benefits for assistance with rent at her new home.

CONCLUSIONS OF LAW

SER was established by 2004 Michigan Public Acts 344. The SER program is administered pursuant to MCL 400.10 *et seq.*, and by Michigan Administrative Code Rules 400.7001-400.7049. DHS policies are found in the Emergency Relief Manual (ERM). The manual is available online at www.michigan.gov/dhs-manuals.

The ERM is the authoritative source for DHS policies and procedures required in the administration of the SER program and, accordingly, I look to the ERM to determine what is required of the parties in this situation. The manual section that I believe is applicable in this case is ERM Item 303, "Relocation Services." The Department Policy is stated at the very beginning of the ERM 303 and is as follows:

RELOCATION SERVICES

DEPARTMENT POLICY

State Emergency Relief assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits and moving expenses. ERM 303, p. 1.

ERM 303 continues on to explain the SER requirement of “housing affordability”:

HOUSING AFFORDABILITY

Bridges [computer program] will determine whether the SER group’s rental housing is affordable. Approve SER for relocation services only if the group’s rental obligation meets the criteria for housing affordability specified in ERM 207. *Id.*, p. 3.

Following the direction here to apply ERM 207, I now go to that manual Item to determine the requirements it imposes on SER program participants.

ERM 207, “Housing Affordability,” sets forth Department Policy as follows:

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)....

...

Authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. A 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. ERM 207, p. 1.

It is now my duty to apply the requirements of ERM Item 207 to Claimant's June 8, 2010, and June 29, 2010, applications. I must consider in each instance whether 75% of Claimant's total countable income on each of these dates is sufficient to meet her monthly ongoing housing expenses.

In fulfilling this duty, I look to the record in this case to see what income was included in the affordability calculations for both dates. There is nothing in the record to indicate what calculations DHS made regarding either the June 8 or June 29 applications. Beginning with the June 8 application, I cannot determine from the record presented to me whether, on June 8, Claimant's wage and UI benefits were both considered in the calculation and what the amount of total countable income was deemed to be on that date.

Indeed, I cannot be sure that a calculation was ever made for the June 8 application. I note that, at the hearing, the June 8 application does not have with it the UI income records. The UI income records were made a part of the subsequent June 29 application, but they were not part of the June 8 application. I consider, therefore, that DHS did not include this income in the June 8 calculation and Claimant's countable income was less than it should have been.

I therefore find and determine that DHS erred in its processing of the June 8, 2010, application and DHS is REVERSED. The June 8 application must be reopened and reprocessed based on all of Claimant's countable income, including UI.

Next, I look to see if the requirements of ERM 207 were applied to Claimant's June 29 application. This application was granted and denied in the same Decision Notice. Accordingly, even if I had budget calculations in the record, I would not know whether the numbers applied to the grant or the denial of SER benefits in this case. As I cannot even tell whether the June 29 application was granted or denied, I find that DHS erred in processing this application and must be REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS erred in processing Claimant's June 8, 2010, and June 29, 2010, applications and shall be REVERSED. IT IS ORDERED that DHS shall reopen and reprocess both applications, making housing affordability analyses for both applications, to determine if Claimant is eligible for SER relocation benefits on either or both dates.



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

Date Signed: November 22, 2010

Date Mailed: November 23, 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:

