

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.: 2010-8521
Issue No.: 5026
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 20, 2010
Oakland County DHS (2)

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 September 20, 2010. The claimant appeared and testified. [REDACTED] AP Manager, and [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's SER application because the emergency had been resolved?

FINDINGS OF FACT

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

- (1) Claimant applied for SER benefits on August 3, 2009. The Claimant requested assistance with her security deposit in the amount of \$1,200. Exhibit 1
- (2) The Claimant as a group of one member was only eligible for \$410 SER for her security deposit. ERM 303
- (3) The Department did not act within the 10 days it is required to act to determine whether the application should be granted. The Department had until August 13, 2010 to make its decision within the standard of promptness.

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- (4) The Department did not present any request for verifications at the hearing and it was unclear whether any verifications had been requested of the Claimant which were not responded to.
- (5) Claimant's application for SER was denied on August 18, 2009 because the emergency no longer existed and the Claimant had already moved into the new home.
- (6) Had the Department acted in a timely manner and responded to the application by August 13, 2010, the Claimant would not have received assistance with her security deposit as the Department would not have been eligible to reimburse the Claimant for expenses which were already paid without SER approval.
- (7) The Claimant sent a letter to the Department dated October 20, 2009 stating that she had previously provided the Department some of the requested information regarding her new home she was moving into.
- (8) The Department's denial of the Claimant's Application was left at the front desk as a result of her conversation with her worker and was not picked up by the Client. The denial was sent to the Claimant on September 19, 2010 when it was not picked up.
- (9) The Claimant moved into her new home on August 11, 2010.
- (10) Claimant requested a hearing on October 20, 2009 contesting the denial of her SER application which request for hearing was received by the Department on November 3, 2010.

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 relocation services applicants must show they are homeless or potentially homeless. ERM 303. The Department should 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

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The following policy requirements are controlling and applicable to this case. The first policy provides when the Department must take applicable action on the application:

The SER standard of promptness is **10 calendar days**, beginning with the date the signed SER application is received in the local office. The case record must include documentation of the reason for any delay in processing the application beyond the standard of promptness. ERM 103 page 5.

In this case while the Department missed the standard of promptness, the fact is that the Claimant moved before the Department was required to act on the application. In essence the emergency had been resolved by the Claimant before the Department was required to act.

An additional policy also prohibits the Department from reimbursing expenses which are incurred or paid without prior approval:

Do not issue SER to reimburse expenses incurred or paid without prior department approval. ERM 103 page 3

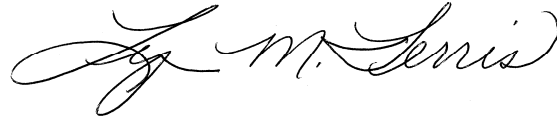
At the point in time when the Claimant had already moved the Department had several days remaining to make a determination. If the Department had decided that the Claimant was eligible on the 13th of August, the emergency would have been resolved and the Department would not have had an emergency to act upon. Additionally, the Department could not reimburse the Claimant for expenses she had incurred without Department approval.

In order to grant SER the Department can only act if the emergency remains to be resolved. BEM 103, page 3.

Under the circumstances of this case it must be found that the Department properly denied the SER application even though it did not do so in a timely manner and its decision to deny the requested SER is UPHELD.

DECISION AND ORDER

This Administrative Law Judge 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: 10/06/2010

Date Mailed: 10/06/2010

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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