

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-15704
Issue No.: 5025
Case No.: [REDACTED]
Hearing Date: March 17, 2011
DHS County: Wayne (82-55)

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 March 17, 2011. Claimant appeared and testified at the hearing. [REDACTED]

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

ISSUE

Whether DHS denied State Emergency Relief (SER) benefits to Claimant in accordance with DHS policies and procedures?

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 August 23, 2010, the Wayne County Treasurer issued a Foreclosed Property Tax Statement to Claimant, stating that the amount of the tax arrearage on Claimant's home [REDACTED] in Detroit was \$6,098.22.
2. On September 8, 2010, Claimant applied for SER benefits with DHS. Her application requested four types of assistance: home repairs, utilities, taxes and moving expenses.
3. Claimant submitted all of the required verification materials to DHS.
4. Claimant was not provided with a written denial of her application.

5. On November 15, 2010, Claimant filed a Request for Hearing with DHS.
6. On January 5, 2011, DHS issued a Hearing Summary which gave the explanation for the Department's action as, "Client no longer owns her home (sic) she lost it for back taxes."

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 Michigan Administrative Code Rules 400.7001-400.7049. DHS policies and procedures are found in the Emergency Relief Manual (ERM). This manual is available online at www.michigan.gov/dhs-manuals.

The administrative manuals are the policies and procedures DHS officially created for its own use. While the DHS manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow.

First, I wish to explain that BAM Item 600 provides clients with the right to contest any DHS decision affecting eligibility or benefit levels whenever they believe the decision is illegal. DHS provides an Administrative Hearing to review the decision and determine if it is appropriate. DHS policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when DHS receives a hearing request and continue through the day of the hearing.

This hearing is about the denial of SER benefits where there was a tax foreclosure of the [REDACTED] property, and Claimant is no longer the owner of the property. However, Claimant is still living in the home and was offered the opportunity to reclaim her ownership rights upon payment of \$500 to the Wayne County Treasurer. Thus, although her property rights are extinguished, she has not been asked to quit the premises.

This is a situation where three DHS Manual Items are applicable: ERM 302, "Utility Services," ERM 303, "Relocation Services," and ERM 304, "Home Ownership." I will evaluate DHS' denial of benefits in this case according to the four different types of benefits requested. DHS' denial of utility assistance must be evaluated according to ERM 302; the denial of moving expenses must be evaluated according to ERM 303; and last, the denial of home repairs and tax assistance must be evaluated under ERM 304.

In this case, I have reviewed all of the evidence and testimony in its entirety, and I find that part of DHS' action is correct and part of it is incorrect. Starting first with Claimant's request for assistance with utilities, I find nothing in ERM 302 that says that Claimant is

ineligible for utility assistance because she is in foreclosure. Therefore, I find that DHS erred in denying Claimant SER assistance for her utility needs, and a remedy shall be provided.

Second, with regard to relocation assistance, there is a requirement in ERM 303 that the person must be in one of six situations: homeless, legal notice, foster care, unsafe housing, condemned housing and high energy. I determine that the category which Claimant might fall into is the category of legal notice, i.e., that she has the proper legal notice which may cause her to be homeless. However, the legal notice requirement is a requirement that there be a court summons, order or judgment in place.

I find and conclude that there was no court summons, order or judgment in place on September 8, 2010, when Claimant applied for relocation expenses. I therefore decide that she was not eligible at that time for relocation expenses because she was not in one of DHS' six categories of need in ERM 303. I conclude that DHS acted correctly in denying relocation assistance and affirm its action.

Third and last, I look to ERM 304 to determine if Claimant was properly denied home ownership assistance for taxes and home repairs. I find that ERM 304 states several conditions that must be met in order to qualify for this assistance. First, a member of Claimant's group must be an owner or purchaser of the property (or, have a life estate interest or be a co-owner). I find and determine that Claimant is not an owner or purchaser of the property, as there has been a foreclosure action in this case. I therefore find and conclude that DHS acted in accordance with policy in denying home ownership assistance to Claimant.

In conclusion, based on my findings of fact and conclusions of law above, I find and determine that DHS is PARTIALLY AFFIRMED and PARTIALLY REVERSED in this case. DHS is AFFIRMED as to its denial of relocation and home ownership assistance to Claimant. DHS is REVERSED as to its denial of utility assistance to Claimant in this case. DHS shall reopen and reprocess Claimant's SER application for utility assistance and provide appropriate supplementary benefits retroactively.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides that DHS is PARTIALLY AFFIRMED and PARTIALLY REVERSED. DHS is AFFIRMED as to its denial of SER for relocation and home ownership assistance. DHS is REVERSED as to its denial of SER for utility assistance.

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IT IS ORDERED that DHS shall reinstate and reprocess Claimant's SER application for utility assistance only, and provide appropriate supplemental retroactive benefits in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 30, 2011

Date Mailed: April 4, 2011

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:

