

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.: 2011-18743
Issue No.: 5032
Case No.: [REDACTED]
Hearing Date: April 4, 2011
DHS County: Wayne (82-49)

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 April 4, 2011. Claimant appeared and testified. [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether Claimant is eligible for State Emergency Relief (SER) benefits for 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 July 20, 2010, Claimant was served with a court order of eviction and left her residence.
2. Since July 2010, Claimant has boarded at the [REDACTED], an emergency shelter in [REDACTED], when space is available there for her.
3. Claimant is a homeless individual.
4. On January 14, 2011, Claimant applied to DHS for SER relocation assistance to enable her to move into a new residence.

5. On January 21, 2011, DHS denied SER benefits to Claimant for the stated reason that Claimant did not provide documentation of eviction or temporary housing.
6. On January 26, 2011, Claimant filed a notice of hearing request with DHS.

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 are found in the Emergency Relief Manual (ERM). ERM is available online at www.michigan.gov/dhs-manuals.

ERM contains the policies and procedures that DHS officially created for its own use in the SER program. While the manual is not law created by the U.S. Congress or the Michigan Legislature, it constitutes legal authority which DHS must follow. It is to ERM that I look now in order to see what policy applies to this case.

In this case, the Department has cited ERM 303, "Relocation Services," as authority for the denial of Claimant's application. ERM 303, "Relocation Services," states that the purpose of the procedure is "to resolve or prevent homelessness." ERM 303, p. 1.

I agree that ERM 303 is the appropriate legal reference by which to evaluate DHS' actions in this case. In ERM 303, DHS spells out its requirements and procedures for assisting homeless customers with rent, security deposits, moving expenses, etc.

The first ERM requirement to qualify for SER is verification of homelessness from DHS customers. If the client is not currently homeless, the client must present an eviction order or a court summons regarding eviction. I have found as fact, and at the hearing there was no dispute, that Claimant was homeless when she applied for SER benefits..


I have reviewed all of the evidence and the testimony in this case. At the Administrative Hearing on April 4, 2011, DHS testified that the primary reason for the denial of SER in this case was not lack of documentation but, rather, the Specialist's belief that Claimant "should have been more responsible" with the management of her Family Independence Program (FIP) grant money.

I find there is nothing in ERM 303 that authorizes DHS to review the FIP expenditures of a SER applicant in deciding whether the individual is eligible to receive SER benefits. I find and conclude that DHS in this case added a special, unique requirement into the application process, and this is illegal. I REVERSE DHS in this case.

In conclusion, based on the findings of fact and conclusions of law above, I find and conclude that DHS is REVERSED. IT IS ORDERED THAT DHS shall reinstate and process Claimant's SER application and provide Claimant with all benefits to which she is entitled as of the date of her application for SER benefits.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, REVERSES the DHS denial of SER to Claimant. IT IS ORDERED that DHS shall reinstate and process Claimant's SER application and provide her with all SER relocation benefits to which she is entitled in accordance with DHS policy and procedure.



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

Date Signed: April 11, 2011

Date Mailed: April 13, 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:

