

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-22605

Issue No: 5017

[REDACTED]

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on February 18, 2011. After due notice, a telephone hearing was held on May 26, 2011. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny Claimant's State Emergency Relief (SER) application because he had resolved his own emergency?

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 State Emergency Relief (SER) assistance on January 18, 2011. (Hearing Summary).
2. On January 20, 2011, the department mailed Claimant a Quick Note explaining that his SER application had been processed and his copayment would be [REDACTED] and that he needed to call the department as soon as possible in order to find another provider to install his well because the one he had chosen was not approved by the department. (Department Exhibit 2).
3. On January 21, 2011, Claimant called the department and informed his case worker that he had used another company and paid for the services. (Hearing Summary).
4. The department mailed Claimant the SER decision notice on January 27, 2011, denying his SER application. (Department Exhibit 1).

5. Kalamazoo County DHS received Claimant's request for a hearing on February 18, 2011, protesting the denial of assistance in paying for his well.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 (DHS or department) 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. Covered home ownership services include property taxes and fees. Eligibility requirements direct the department to issue Home Ownership Services payments only to save a home threatened with loss due to mortgage foreclosure, land contract forfeiture, tax foreclosure, or court ordered eviction of a mobile home from land or a mobile home park.

The lifetime home ownership services maximum is [REDACTED]. The lifetime maximum is the combined cumulative total of all home ownership service payments. Individual services (house payments, property taxes, etc.) do not have separate lifetime maximums.

In addition, **all** of the following conditions must be met (unless specified for a particular service):

- An SER group member is an owner or purchaser of the home, or holds a life estate on the home with the responsibility for home repairs. If the home is co-owned, the cost of the emergency is not split between the co-owners or co-purchasers.
- The home is the SER group's permanent, usual residence.
- The home is not listed for sale.
- The home is not in jeopardy of loss. (This only applies to home repairs.) Deny repairs if there is a house payment or property

tax arrearage, unless a workable plan exists for paying the arrearage.

- The ongoing cost of maintaining the home is affordable to the SER group; see ERM 207, Housing Affordability.
- The SER group did not cause the emergency. Do not authorize Home Ownership Services if the emergency was client-caused; see ERM 204, Client Caused Emergencies. (Property tax and home repair requests are exempt from the client-caused provision in Item 204.)
- The home is in livable condition and payment will guarantee safe, sanitary shelter both now and in the future. Do not approve any home ownership services payments for homes that are not in a livable condition or cannot be brought to a livable condition within the remaining SER home repair limit.
- The total amount of tax arrearage for all years does not exceed [REDACTED] (This only applies to home ownership for taxes.) Pay only the minimum amount required to resolve the tax emergency. Do not pay until loss of the home is imminent; see Verification below.
- The amount to be authorized does not exceed the home ownership services maximum of [REDACTED], the energy-related home repair maximum of [REDACTED] or the non-energy-related home repair maximum of [REDACTED] and the issuance amount will resolve the emergency. ERM 304.

Non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement. Examples include:

- Repairs to the basic structure.
- Hot water heater.
- Septic/waste disposal system.
- Doors/windows.
- Extermination services.
- Electrical.
- Plumbing.
- Roofs.
- Wells/water supply system.
- Wheelchair ramps.

Authorization for payment is only made if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. The repair(s) must restore the home to a safe, livable condition.

In this case, Claimant requested assistance by telephone on January 11, 2011, in paying for a new well because his home had been without water for two weeks. Claimant was instructed to submit an SER application and include proof of ownership of his home, taxes and two estimates from well companies. On January 18, 2011, Claimant submitted his SER application. On January 20, 2011, the department called Claimant and informed him of his co-pay and that he needed to find another well company because the one he had chosen was not approved by the department. On January 21, 2011, Claimant called the department and informed them he had used another company and paid for the well installation. On January 27, 2011, Claimant's SER application was denied because he had resolved his own emergency.

The department only issues home repair payments if the repair(s) are essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. The repair(s) must restore the home to a safe, livable condition. ERM 304. Here, Claimant paid for the new well prior to departmental approval of his request. Therefore, because there was no longer a direct threat to the health or safety of his family, the department properly denied Claimant's SER application.

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 denying Claimant's SER application.

Accordingly, the Department's SER eligibility determination is AFFIRMED.

It is SO ORDERED.

/s/ _____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/26/11 _____

Date Mailed: 5/26/11 _____

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 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.

VLA/ds

■ [REDACTED]