

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.: 2011-2278
Issue No.: 5026
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 13, 2010
Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 December 13, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether Claimant can meet the emergency requirement of State Emergency Relief with verification of a 65 day old court-ordered judgment against Claimant.

FINDINGS OF FACT

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

1. On 7/15/10, Claimant applied for State Emergency Relief (SER) seeking assistance with a rent arrearage.
2. Claimant verified the emergency by submitting a judgment (Exhibit 3) from 36th District Court which gave Claimant until 7/30/10 to move, to pay her landlord \$2010 or be subject to an order evicting her from the premises.
3. DHS denied Claimant's SER application dated 7/15/10 for unspecified reasons.
4. On an unspecified date, Claimant and her landlord agreed that Claimant could continue living at the landlord's residence if Claimant paid her

ongoing \$700/month rent, \$50/month late fee and Claimant somehow paid the \$2010 arrearage over time.

5. Claimant paid \$750 to her landlord in early 9/2010 as her first payment after the 36th District Court Judgment.
6. On 9/16/10, Claimant applied again for SER for rent arrearage (Exhibit 1) claiming that she was still subject to eviction due to her failure to pay the \$2010 rent arrearage to her landlord.
7. On 9/23/10, DHS mailed Claimant a State Emergency Relief Decision Notice (Exhibit 4) denying the SER application dated 9/16/10 on the basis that Claimant does not "have a court ordered eviction notice".
8. On 9/30/10, Claimant requested a hearing disputing the 9/16/10 denial of her SER application.

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 Emergency Relief Manual (ERM).

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization.

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 at 1. SER applications involving relocation may only be approved if all other SER criteria are met and one of the following circumstances exists:

- The SER group is homeless;
- The SER group is potentially homeless;
- Adequate housing is needed to avoid foster care placement of a child;
- It is determined that a family must be relocated from unsafe housing for the protection of children
- SER group receives final notice to vacate condemned housing

- It is determined that the SER group lives in high-energy housing that cannot be rehabilitated. *Id. at 3.*

An eviction, judgment, or court order from the client's last residence are all acceptable verifications to establish homelessness. *Id at 4.* An eviction order or court summons regarding eviction is one of the acceptable listed verifications to establish potential homelessness.

In the present case, Claimant alleges that she was potentially homeless in 9/2010 based on her landlord's eviction proceedings from 7/2010. Claimant submitted a summons (Exhibit 2) issued 7/1/10 and a Judgment (Exhibit 3) from 36th District Court dated 7/13/10 as verifications of her potential homelessness.

DHS contended that Claimant cannot establish potential homelessness on 9/16/10 by relying on a Judgment for eviction dated 7/13/10; specifically, DHS contended that two months following the issuance of a Judgment renders the Judgment invalid for purposes of eviction. Though the DHS contention is not unreasonable, the basis for the DHS belief is pure speculation. DHS presented no DHS regulation or State of Michigan law which prevents Claimant's landlord from evicting Claimant in 9/2010 based on a 7/13/2010 dated Judgment.

Reading the Judgment on its face, Claimant's landlord has the right to evict Claimant if Claimant fails to pay the landlord \$2010 in rent. Claimant credibly testified that she had only paid \$750 between the time the Judgment was issued and the time she submitted her SER application dated 9/16/10. By paying less than the amount ordered in the Judgment would appear to make Claimant vulnerable to eviction.

Claimant provided testimony that she and her landlord agreed that Claimant would pay \$750/month on her current rent and Claimant would try to pay back rent through SER assistance or some other method. The agreement between Claimant and her landlord did not invalidate any of the terms of the Judgment nor make it obsolete. It is found that DHS improperly denied Claimant's SER application dated 9/16/10 on the basis that Claimant failed to establish a need for SER assistance.

It should be noted that this decision does not make any finding concerning Claimant's eligibility for SER other than Claimant verified a need for SER. Claimant must still meet other SER requirements such as affordability, good cause for prior non-payments and copayments beyond the program's maximum payment.

It should also be noted that Claimant testified that she is no longer living at the rental premises because of reasons unrelated to this matter. DHS shall not consider any circumstances that were not in effect at the time of the 9/23/10 denial of SER. To allow DHS to consider such circumstances would reward DHS for the improper denial.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's SER application dated 9/16/10. It is ordered that DHS reinstate Claimant's application and process it in accordance with DHS regulations and the circumstances in effect at the time of the application. The actions taken by DHS are REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/21/2010

Date Mailed: 12/21/2010

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.

CG/jlg

cc:

A large black rectangular redaction box covers the names and contact information of the recipients listed in the 'cc:' field.