

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-24175
Issue No.: 5017
Case No.: [REDACTED]
Hearing Date: May 9, 2011
DHS County: Wayne (82-43)

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] hearing request of March 14, 2011. After due notice, a telephone hearing was conducted on May 9, 2011. Claimant appeared and testified. [REDACTED] [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether DHS denied Claimant's request for State Emergency Relief (SER) home repair assistance in accordance with its 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. At all times pertinent to this matter, Claimant was unemployed, she is unable to work, and is awaiting a disability determination from the Social Security Administration.
2. At all times pertinent to this matter, Claimant owned her own home outright and has no property tax arrearages.
3. On March 1, 2011, Claimant applied for SER assistance for roof repairs on her home.

4. On March 5, 2011, DHS issued a SER Decision Notice denying assistance to Claimant for the reason that, "Your shelter is not affordable according to SER requirements."
5. On March 14, 2011, Claimant requested a hearing with DHS.

CONCLUSIONS OF LAW

SER was established by 2004 Michigan Public Acts (PA) 344. SER is administered pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.7001-400.7049. DHS' SER policies are found in the State Emergency Relief Manual (ERM). This Manual is available online at www.michigan.gov/dhs-manuals.

The DHS manuals are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manual that I look now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

With regard to home repairs, ERM Section 304, "Home Ownership," applies. DHS' policy on providing home repairs is that DHS "assists with home repairs to correct unsafe conditions and restore essential services." The home repair lifetime maximum benefit is \$1,500. ERM 304 lists roof repairs as a non-energy-related home repair for which SER can be provided. ERM 304, pp. 1-3.

The second ERM Item applicable in this case is ERM 207, "Housing Affordability." ERM 207 states as follows:

Housing affordability is a condition of eligibility for State Emergency Relief (SER) and applies only to ... Home Ownership Services and Home Repairs (ERM 304)....

In this item, "total housing obligation" means the total amount the SER group must pay for rent, house payments, mobile home lot rent, property taxes and required insurance premiums....

Authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. An SER group that cannot afford to pay their ongoing housing costs ... will not be able to retain their housing, even if SER is authorized.

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, p. 1 (emphasis added).

I find and conclude as a matter of law that ERM 207 means that if a person does not have an income high enough that their "total housing obligation" is 75% or less of that income, DHS must deny benefits. Applying the law to the case before me, I find and conclude that while it is true that Claimant has no income, she does not appear to have a housing obligation either.

The record before me shows that the house is paid for, so there is no monthly house payment, and there is no property tax arrearage. Although Claimant has not paid her 2011 property taxes yet, the 2011 taxes are required to be paid in the future, not at present. Accordingly, I find and determine that Claimant's current income is \$0, and her current housing obligation is also \$0. Based on this evidence, I conclude and determine that Claimant passes the housing affordability test and is eligible for SER as long as she meets all other eligibility requirements.

In conclusion, based on the above findings of fact and conclusions of law, I determine that DHS erred in this case and DHS' action is REVERSED. DHS need take no further action in this matter.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge REVERSES DHS' decision. IT IS HEREBY ORDERED that DHS shall reinstate and reprocess Claimant's SER application and provide SER benefits in accordance with this opinion, DHS eligibility requirements, and all other policies and procedures.



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

Date Signed: May 11, 2011

Date Mailed: May 16, 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

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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

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