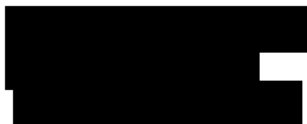


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No. 201134106
Issue No. 5012
Case No. [REDACTED]
Hearing Date: July 11, 2011
Macomb (20)

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's hearing request. After due notice, a telephone hearing was conducted in Detroit on July 11, 2011. The Claimant appeared and testified. [REDACTED] was present as a witness for Claimant. [REDACTED] Eligibility Specialist, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

Whether DHS denied Claimant's request for State Emergency Relief (SER) assistance with his rent in accordance with its policy and procedure?

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's income was \$0.00.
2. On or before April 20, 2010, Claimant applied for assistance with his rent.
3. On April 20, 2011, DHS issued a State Emergency Relief Decision Notice denying assistance to Claimant for the reason, "Your shelter is not affordable according to SER requirements."
4. On April 29, 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 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. 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.

ERM 207, "Housing Affordability," is the applicable manual item, and it states as follows:

Housing affordability is a condition of eligibility for State Emergency Relief (SER) and applies only to Relocation Services (ERM 303) and 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 plus any utility obligations will not be able to remain in 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 that ERM 207 means that if a person has no income, he does not have the ability to meet his ongoing housing expenses. In this situation, I must deny SER according to ERM 207.

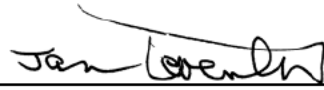
While I am sympathetic to Claimant's situation, I cannot allocate public resources at my own discretion. Indeed, that is exactly what DHS policies and procedures are intended to prevent, i.e., the distribution of public monies at the whim and caprice of public employees.

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Accordingly, in conclusion, based on the above findings of fact and conclusions of law, I determine that DHS acted correctly in this case and the Department's action is AFFIRMED. 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 AFF IRMS the Department's decision denying SER relocation services in this case. DHS need take no further action in this matter.



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

Date Signed: July 12, 2011

Date Mailed: July 12, 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/cl

cc:

