

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201143327
Issue No: 5025
Case No: [REDACTED]
Hearing Date: August 18, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 received on May 23, 2011. After due notice, a telephone hearing was held on August 18, 2011. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's State Emergency Relief (SER) application for assistance with past due property taxes?

FINDINGS OF FACT

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

1. The claimant applied for State Emergency Relief (SER) assistance on March 10, 2011. (Department Exhibits 1-6).
2. The department sent the claimant a state emergency relief decision notice on March 11, 2011 denying the claimant's SER application due to the back taxes having a balance of over [REDACTED]. (Department Exhibit 8).
3. The claimant made a payment on her taxes to bring the balance below [REDACTED] and reapplied for SER assistance on March 16, 2011. (Department Exhibits 9-14).
4. The department then sent the claimant a state emergency relief decision notice on March 17, 2011 approving the claimant's application. (Department Exhibit 27).

5. In approving the claimant's SER application, the department assigned the claimant a payment contribution amount of [REDACTED] to be paid by the claimant with proof of payment due to the department by April 14, 2011. (Department Exhibit 27).
6. The claimant submitted proof of her payment to the department on April 5, 2011. (Department Exhibit 28).
7. Upon receipt of the payment of proof, the department worker submitted an authorization/invoice (DHS 849) to the department accounting department. (Department Exhibit 29).
8. On April 15, 2011 a worker in the department accounting department deleted the DHS 849 and did not authorize payment based on a conversation the accounting worker had with the Genesee county treasure's office indicating that the claimant's property was not in foreclosure. (Department Exhibit 29 and Department Hearing Summary).
9. The claimant submitted a hearing request on May 31, 2011 protesting the department's failure to make the SER payment.

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. BAM 600. 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 Emergency Relief Manual (ERM).

State Emergency Relief prevents serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101.

Department policy states that certain services (including property taxes and fees) will be covered by SER if said payment will prevent the loss of the home and the home will provide safe shelter for the SER group for the foreseeable future. ERM 304. In relation to home ownership services that may be paid by the department, policy states as follows:

Home Ownership Services

Home ownership services payments are only issued to save a home threatened with loss due to:

- Mortgage foreclosure.
- Land contract forfeiture.
- Tax foreclosure or sale.
- Court-ordered eviction of a mobile home from land or a mobile home park.
- Repossession for failure to meet an installment loan payment for a mobile home.

The lifetime home ownership services maximum is \$2,000. 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. ERM 304.

If SER is requested for property taxes and fees, policy directs the department not to pay anything more than the minimum amount required to resolve the tax emergency and to not make any payment unless the loss of the home is imminent. ERM 304. Additionally, the department must obtain certain verifications in order to approve the application and secure payment. Department policy states as follows:

Verification

Foreclosure/Forfeiture/Eviction

Foreclosure/forfeiture, or eviction from land or a mobile home park:

- Court order or a written statement from the contract holder or mortgagee that there is a payment arrearage and failure to correct the deficiency may result in foreclosure or forfeiture proceedings.
- A court summons, order or judgment that will result in the SER group becoming homeless.

Property Tax Sale

Property tax sale:

- Statement from taxing authority verifying total tax arrearage, and

- Notice scheduling a judicial foreclosure hearing. This occurs one year after forfeiture -- generally in February.

Note: First, taxes become delinquent. Then, a year later forfeiture occurs and interest and fees increase. One year later, a circuit court hearing is held and foreclosure occurs.

Payment of taxes may be made once the client provides a notice scheduling the judicial foreclosure hearing. It is not necessary to wait until the judgment has been entered. Once a judgment has been entered, the client must make payment within 21 days of entry of the foreclosure judgment but no later than March 31.

Once the March 31 date has passed, ownership is transferred to the county and there is no redemption possible. Process the application within the SOP or by the date necessary to prevent the loss of the property, whichever is sooner. ERM 304.

In the case at hand, the claimant was approved for her second SER application on March 17, 2011. Payment was not tendered by the accounting department because a worker in accounting allegedly had a conversation with someone from the Genesee County Treasurer's office and was told that the claimant's property was not in foreclosure. The worker from the accounting department did not testify at the hearing. The department did not indicate that the claimant was in any other way ineligible for the SER benefits she applied for. The department's sole contention as to the eligibility status of the claimant rests on whether or not the claimant's property was actually in foreclosure.

If the department is to approve a claimant's SER application for past due property taxes, the home must be facing an immediate threat, i.e. the home is in foreclosure due to the past due taxes. ERM 304. Exhibits 16 through 20 of the department's hearing packet contain a true copy of a "Final Judgment of Foreclosure" signed by a Circuit Court Judge pertaining to the claimant's property. The department did not present any other evidence aside from the alleged conversation had by an employee of the accounting department with someone from the Genesee County Treasurer's office.

This Administrative Law Judge is not aware of the role the employee of the accounting department plays in the eligibility process; if said employee is qualified or has the authority to make decisions relating to eligibility. However, even if that employee did have the training and authority to make eligibility determinations, the evidence presented at the hearing does not support the determination that the claimant is not eligible because her property is not in foreclosure. The true copy of the Circuit Court order showing a final judgment of foreclosure is controlling on the issue of foreclosure, and absent any subsequent order either rescinding or modifying such, will be given its proper weight. This Administrative Law Judge therefore finds that the department improperly determined that the claimant's property was not in foreclosure and in turn improperly denied the claimant's SER application.

