

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.: 2011-11310
Issue No.: 5025
Case No.: [REDACTED]
Hearing Date: January 20, 2011
Wayne County DHS (43)

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 January 20, 2011. The claimant appeared and testified; [REDACTED] appeared as Claimant's authorized hearing representative. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly counted Claimant's income as \$0/month in denying Claimant's State Emergency Relief (SER) application dated 2/23/10 requesting assistance with 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. On 2/23/10, Claimant submitted a SER application requesting assistance with property taxes.
2. At the time of Claimant's application, Claimant had some unspecified income.
3. In determining Claimant's eligibility for SER, DHS budgeted \$0/month as Claimant's income.
4. On 2/23/10, DHS mailed Claimant a SER Decision Notice (Exhibit 1) denying Claimant's application on the basis that the "shelter is not affordable".

5. On 2/25/10, Claimant requested a hearing disputing the denial of the SER application.
6. At the hearing, DHS agreed that Claimant's income was improperly budgeted in determining Claimant's eligibility for SER benefits.

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.

Housing affordability is a condition of eligibility for SER assistance with home ownership services. ERM 207 at 1. Property tax arrearage is a subsection of home ownership services. ERM 304 at 1.

DHS specialists are directed to authorize SER for home ownership services only if the SER group has sufficient income to meet ongoing housing expenses. ERM 207 at 1. A SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. *Id.*

DHS specialists are directed to deny SER applications if the group does not have sufficient income to meet their total housing obligation. *Id.* The total housing obligation cannot exceed 75% of the group's total net countable income. *Id.* ERM 207 provides instruction on how to calculate housing affordability. It states:

Multiply the group's total net countable income by 75%. The result is the maximum "total housing obligation" the group can have, based on their income, and be eligible for SER housing services; and refer to the table at the end of this item for any increases in the basic 75% test if the group is renting and heat, electric or water/ cooking gas is included in the rent. Multiply the resulting percentage by the group's total net countable income. The result is the absolute "total

housing obligation” the group can have and be eligible for SER housing services.

In the present case, Claimant was denied SER assistance for property taxes due to not being able to afford the costs of the residence. No evidence was submitted concerning the specifics of the affordability of Claimant’s residence. However, DHS conceded that when Claimant was denied SER, the decision was based on an incorrect income calculation. DHS stated that Bridges, the DHS database, improperly calculated Claimant’s income to be \$0/month at a time when Claimant had some unspecified higher income. DHS and Claimant’s representative came to an agreement that DHS should reconsider Claimant’s eligibility for SER using the correct income amount for Claimant.

Much of the administrative hearing was concerned with whether Claimant would be eligible for SER even if it is found that the original DHS basis for denial was improper. It would seem pointless for both parties to order DHS to reconsider Claimant’s SER eligibility when it is apparent that Claimant was not eligible for SER based on a reason unrelated to affordability. However, as both parties agreed to the resolution that Claimant’s application should be reregistered and reprocessed, the undersigned is inclined to narrowly review the matter and adopt the agreement made by the parties. Claimant should be warned that this decision makes no findings concerning Claimant’s SER eligibility for property taxes other than that DHS erred in budgeting \$0/month for Claimant’s income in determining whether Claimant could afford the residence. Claimant is entitled to request future administrative hearings if there is a dispute concerning the reprocessing of Claimant’s application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact, conclusions of law and by agreement of the parties, finds that DHS improperly denied Claimant’s application for SER assistance with property taxes. It is ordered that DHS reregister and reprocess Claimant’s SER application dated 2/23/10 and to update Claimant’s income to its proper amount. The actions taken by DHS are REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/25/2011

Date Mailed: 1/25/2011

201111310/CG

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/JG

cc:

A large black rectangular redaction box covers the names of the individuals listed in the 'cc:' field. The redaction is complete, obscuring all text underneath.