

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.: 2011-16196
Issue No.: 5025
Case No.: [REDACTED]
Hearing Date: March 24, 2011
DHS County: Oakland (63-03)

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] request for a hearing. After due notice, a telephone hearing was held on March 24, 2011. Claimant appeared and testified at the hearing. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS denied State Emergency Relief (SER) benefits to Claimant in accordance with DHS 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. In 2007, 2008 and 2009, Claimant accrued a property tax arrearage on her home of approximately \$13,142.
2. On February 18, 2010, Claimant applied for SER benefits with DHS.
3. On February 23, 2010, DHS denied Claimant's application.
4. On March 11, 2010, Claimant filed a Request for Hearing with DHS.

CONCLUSIONS OF LAW

SER was established by 2004 Michigan Public Acts 344. The SER program is administered pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.7001-400.7049. DHS policies and procedures are found in the 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.

First, I wish to explain that BAM Item 600 provides clients with the right to contest any DHS decision affecting eligibility or benefit levels whenever they believe the decision is illegal. DHS provides an Administrative Hearing to review the decision and determine if it is appropriate. DHS policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when DHS receives a hearing request and continue through the day of the hearing.

This hearing is about the denial of SER benefits where there is a tax arrearage on Claimant's home. This is a situation where ERM 304, "Home Ownership," is the applicable DHS manual Item. I will evaluate DHS' denial of tax assistance using ERM 304.

ERM 304 sets out the procedures for deciding when an individual is eligible for home ownership tax assistance. ERM 304 requires that the home be "threatened with loss...due to tax foreclosure." In this case, I have reviewed all of the evidence and testimony in its entirety. I find that the record in this case establishes that on February 18, 2010, the date of Claimant's SER application, Claimant was in arrearage in her taxes, but there is nothing in the record to establish that at that time, Claimant's home was threatened with loss due to a tax foreclosure proceeding. Indeed, there was testimony at the hearing that no such proceeding was even begun until May 4, 2010, over three months after Claimant's SER application. I therefore find and determine that Claimant's application was premature and DHS acted correctly in denying it.

In conclusion, based on my findings of fact and conclusions of law above, I find and conclude that DHS acted in accordance with DHS policy in denying SER home ownership assistance to Claimant. DHS is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, states that DHS acted correctly in this case and is AFFIRMED. DHS need take no further action in this case.



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

Date Signed: March 31, 2011

Date Mailed: April 4, 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/pf

cc:

