

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201119183

Issue No: 5025

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 25, 2011

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on May 25, 2011.

ISSUE

Was the claimant's application for SER funds properly denied?

FINDINGS OF FACT

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

- (1) Claimant applied for SER rental assistance in January 2011.
- (2) Claimant had a rental obligation of \$650 per month, not including utilities.
- (3) Claimant had a total monthly income at the time of application of \$791.32.
- (4) Claimant's SER application was denied because the total housing obligation was at least 82% of claimant's income, before including utilities.

- (5) On February 8, 2011, claimant requested a hearing on the matter, contesting the SER denial.
- (6) On May 25, 2011, a hearing was held before the Administrative Law Judge.
- (7) Claimant was represented at hearing by [REDACTED].

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 (DHS or Department) policies are found in the State Emergency Relief Manual (ERM).

SER applicants must have an emergency which threatens health or safety and can be resolved through issuance of SER. ERM 101. In the case of housing payments or utility payments, this usually requires that the applicant be facing an actual eviction or foreclosure. ERM 301, 302, 303. Housing must be affordable to be considered eligible for SER payments. In SER applications involving rental evictions, claimant's total housing obligation, which includes all rent and utilities, cannot exceed 75% of the group's total net income. ERM 207.

Claimant's monthly income, at the time of the application, was \$791.32. Claimant confirmed this income at the hearing. Claimant's rental obligation, also confirmed, was \$650 per month. \$650 per month is 82% of \$791.32, which is above the allowable 75% limit; this calculation was factored before claimant's other utility obligations were

factored. Therefore, claimant's housing is not considered affordable, and the Department was within policy when it denied SER payments.

While the claimant argues that her income subsequently increased, the undersigned can only consider the information the Department knew at the time the application was processed. If claimant's income subsequently increased, claimant should file a new application. Furthermore, while the claimant's representative argued with regard to the Department's mission to prevent homelessness, this argument was an equitable argument, and the Administrative Law Judge has no equitable powers. The undersigned may only consider whether the Department acted within policy. Here, that answer is in the affirmative, and therefore, the Department actions must be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny claimant's SER application was correct.

Accordingly, the Department's decision in the above stated matter is, hereby, AFFIRMED.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 06/03/11

Date Mailed: 06/07/11

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.

RJC/dj

cc:

