

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-24950
Issue No.: 5026
Case No.: [REDACTED]
Hearing Date: May 12, 2011
DHS County: Wayne (82-35)

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 May 12, 2011. Claimant appeared and testified. [REDACTED] and [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether Claimant is eligible for State Emergency Relief (SER) benefits for relocation services?

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. This matter comes before MAHS for a second hearing on the issue of SER rent assistance to Claimant.
2. On November 8, 2010, Claimant applied for SER assistance with her rent.
3. Claimant's income in November 2010 was \$828, her household size was six people, and her rent was \$650 per month.
4. On November 29, 2010, Claimant filed a Hearing Request regarding the verification process.

5. On December 21, 2010, DHS issued a SER Decision Notice granting \$82.25 SER assistance to Claimant and requiring Claimant to pay \$650.
6. On February 28, 2011, a hearing was held before Administrative Law Judge Lynn M. Ferris concerning the issue of the landlord's DHS identification information.
7. On March 1, 2011, Claimant filed a second Hearing Request, contesting the calculation of her \$82.25 SER benefit.
8. On March 3, 2011, Administrative Law Judge Ferris ruled that DHS erred in failing to provide Claimant with an opportunity to provide the landlord's DHS identification information. MAHS Reg. No. 2011-11559.
9. At the second Administrative Hearing, which was held May 12, 2011, Claimant contested the calculation of \$82.25 SER benefits, asserting DHS error in group size, income and amount of rent.

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 are found in the Emergency Relief Manual (ERM). ERM is available online at www.michigan.gov/dhs-manuals.

ERM contains the policies and procedures that DHS officially created for its own use in the SER program. While the manual is not law created by the U.S. Congress or the Michigan Legislature, it constitutes legal authority which DHS must follow. It is to ERM that I look now in order to see what policy applies to this case.

In this case, DHS has cited ERM 303, "Relocation Services," as authority for the denial of Claimant's application. ERM 303, "Relocation Services," states that the purpose of the procedure is "to resolve or prevent homelessness." I agree that this Item identifies homelessness as a matter for which SER benefits can be provided. ERM 303, p. 1.

DHS also cited ERM 207, "Housing Affordability." I agree that ERM 207 is the appropriate legal reference to use to evaluate DHS' actions in this case. In ERM 207, DHS spells out the mathematical formula for calculating an individual's SER benefit allotment.

In calculating a client's SER benefit allotment, the first step is to determine what the client can afford based on their income. In this case, Claimant's income is \$828 per month. The DHS formula is that if a client is able to spend up to 75% of her income on

housing, then she is living in "affordable" housing and DHS can assist her. If, however, a client pays more than 75% of her income toward housing, the DHS formula dictates that she is in housing that she cannot afford and she will not be able to continue with given her current income. ERM 207, pp. 1-2.

Applying the housing affordability formula in Claimant's case, the numbers are as follows: Claimant's income was \$858 and her rent was \$650 in November 2010. I calculate 75% of her \$858 income to be \$643, and because the \$650 rent is more than the \$643, I must conclude that Claimant failed the housing affordability test and she is not eligible for SER benefits. I find that group size is not an issue to be considered according to the housing affordability formula of ERM 207, and Claimant's assignment of error on this basis is incorrect.

In conclusion, I have reviewed all of the evidence and the testimony in this case as a whole. Based on the findings of fact and conclusions of law, I AFFIRM DHS' denial of SER benefits of \$732.25 in this case, and I AFFIRM DHS' calculation of SER benefits of \$82.25 court fees.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS the DHS denial of SER benefits of \$732.25 to Claimant, and the award of \$82.25 SER benefits to Claimant. IT IS ORDERED that DHS need take no further action in this matter.



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

Date Signed: May 17, 2011

Date Mailed: May 18, 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.

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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:

