

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-25430
Issue No.: 5025
Case No.: [REDACTED]
Hearing Date: May 19, 2011
DHS County: Wayne (82-49)

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 19, 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 January 2011, the Treasurer of the [REDACTED] issued a Notice of Property Tax Delinquency to Claimant.
2. On February 11 2011, Claimant applied to DHS for SER assistance with a property tax arrearage of \$5,978.25.
3. On March 4, 2011, DHS issued a State Emergency Relief Decision Notice denying Claimant's application.
4. On March 15, 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.

ERM contains 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.

This hearing is about the denial of SER benefits where there is a property 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 11, 2011, the date of Claimant's SER application, Claimant was in arrearage in his taxes, but at that time, Claimant's home was not threatened with loss due to a tax foreclosure proceeding. Indeed, there is no evidence in the record that such proceeding was ever announced to Claimant by the [REDACTED] Treasurer or a court of law. I therefore find and determine that Claimant's SER application was premature and DHS acted correctly in denying it. ERM 304, pp. 1, 5.

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: May 24, 2011

Date Mailed: May 26, 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:

