

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No: 2011 2628
Issue No: 5016,5026
Case No: [REDACTED]
Hearing Date:
December 15, 2010
Wayne County DHS (31)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 December 15, 2010. The Claimant appeared and testified. A witness, [REDACTED] also appeared and testified for the Claimant. Yvette Kahari, FIS appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's SER application for Rent assistance due to housing non affordability?

Did the Department properly deny the Claimant's request for heating assistance?

FINDINGS OF FACT

1. The Claimant applied for State Emergency Relief (SER) seeking, heating, electricity and relocation assistance.
2. On September 24, 2010, the Department sent an SER Decision Notice denying the Claimant's request for assistance for electricity in the Amount of \$257.60 and heat in the amount of \$3963.74. The reason for the denial was that the Claimant had exceeded the cap for both heating and electricity expense. Exhibit 1
3. The Claimant has a current DTE account which is not related to her previous bankruptcy. Account # [REDACTED] Exhibit 6
4. On September 29, 2010, the Department issued a SER Decision Notice that paid for the electricity in the amount of \$247.60. The Department also denied the

heating request requiring that the Claimant must verify payment of \$3,663.74 by October 15, 2010. Exhibit 2

5. The SER Decision Notice, issued September 29, 2010, was in error and the amount of the balance due was based on an old bankruptcy account. Account # [REDACTED].
6. The Department took the position at the hearing that the heating assistance should not be paid due to a prior bankruptcy of the Claimant and that the heat was not paid because the cap for heating had been reached. This determination was in error.
7. The Claimant still had available \$300 of heating assistance left before the cap was exceeded for fiscal year 2010.
8. The Claimant's application for rent/relocation assistance was denied by the Department in a SER Decision Notice dated October 11, 2010 because it found the Claimant's housing was not affordable. Exhibit 3.
9. The Claimant reported income for herself of \$264 in SDA benefits.
10. The Claimant's rent was \$550 per month and she was responsible for electric bill and heating. The Department used 75% of the Claimant's income to determine affordability.
11. The Department correctly concluded that the Claimant's rent was not affordable and that she was not entitled to SER assistance as the rent of \$550 per month was more than the Claimant's income of \$264.
12. The Claimant requested a hearing on October 4, 2010, which was received by the Department on October 18, 2010, protesting the denial of her application for SER.

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. The Department of Human Services' [formally known as the Family Independence Agency] policies are found in the State Emergency Relief Manual ("ERM").

State Emergency Relief ("SER") prevents serious harm to individuals and families by assisting applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101, p. 1. In order to receive benefits for mortgage assistance applicants must show that the housing, in this case rent, is affordable based upon their current income.

The total housing obligation cannot exceed 75% of the group's total net countable income however, when determining the maximum total housing obligation ERM 207, page 2.

ERM 207 provides:

Authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. An 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.

Deny SER if the group does not have sufficient income to meet their total housing obligation. The total housing obligation cannot exceed 75% of the group's total net countable income.

In order to determine eligibility for SER, the Department must determine net countable income. The Department is required to look at the 30 day period immediately **following** the date the Department received the application. ERM 206 page 1. (emphasis supplied).

During this period, the Claimant received SDA in the amount of \$264. To determine the Maximum housing expense the Claimant could have and still afford the rent is determined by taking the total countable income of \$264 and multiplying it by 75% which yields \$198 per month for rent. In this instance, the Department correctly determined that the Claimant's housing was not affordable as the rent exceeded the maximum housing expense.

The Department's determination regarding the Claimant's request for energy assistance for heating was not correct in that it analyzed the request on two bases incorrectly. In the first instance, it did not use the current active account number and utilized an old account of the Claimant's which was an account bearing a balance due from a bankruptcy (acct. # 291117900055). The Claimant's current active heating account had a smaller and different balance than the balance for the old account (current active acct# 291117900071). Because the account balance was less than half the balance the Department utilized when determining the co-pay amount, the Department's determination of the co-pay was in error.

The second basis for the incorrect determination was that the Department could not pay utility SER assistance because of the prohibition found in ERM 301, page 1, which prohibits payment of SER funds for bankrupt accounts. The Claimant did not seek assistance for a bankrupt account with an outstanding balance, but was seeking assistance for a current account. For these two reasons, the Department's denial of the Claimant's SER request for heating assistance must be redetermined by the Department based on the correct account and correct balance to determine if the Claimant was eligible for heating assistance.


DECISION AND ORDER

This Administrative Law Judge decides that the Department was correct in the denial of SER benefits for rent/relocation assistance. It is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

The Department erred with regard to the determination regarding heat assistance and its decision in that regard is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall review its original determination, SER Decision Notice of September 29, 2010, and shall use the correct account balance existing at the time of its original analysis and shall base its decision on the correct current account # [REDACTED]. (Exhibit 6)
2. Upon the completion of the Department's review, if the Claimant is deemed eligible for SER heating assistance, the Department shall provide a new Decision Notice to the Claimant with the correct amount of co-pay, if any, to be made by the claimant, and the Claimant shall be entitled to exhaust the 2010 fiscal year assistance funds left for heating assistance in the amount of \$300, if all other conditions are met by the Claimant.


Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/21/11

Date Mailed: 01/21/11

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.

LMF/dj

cc:

