

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20113696

Issue No: 5025

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

December 1, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on October, 8, 2010. After due notice, a telephone hearing was held on December 1, 2010. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny Claimant's State Emergency Relief (SER) application because he had no income with which to meet future obligations?

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 State Emergency Relief (SER) assistance on September 30, 2010. (Department Exhibit 1).
2. Claimant requested assistance in the amount of \$1,976.64 to pay delinquent property taxes. (Department Exhibit 1-2).
3. The department checked with the Genesee County Treasurer Department and found that Claimant owed \$2,025.89 from 2008 Forfeiture status and \$1,395.28

from 2009 currently in Delinquent status. (Department Exhibit 3).

4. The department mailed Claimant the SER decision notice on October 4, 2010, indicating his SER request had been denied because his shelter was not affordable. (Department Exhibit 2).
5. Genesee County DHS received Claimant's request for a hearing on October 8, 2010, protesting the denial of assistance in paying his delinquent property taxes.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 (SER).

Department policy states that housing affordability is a condition of eligibility for SER and applies only to Relocation Services (ERM 303) and Home Ownership Services and Home Repairs (ERM 304). Housing affordability does not apply to other SER services. ERM 207. In this item, "total housing obligation" means the total amount the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. SER services are only authorized 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. The department is to 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. ERM 207.

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. ERM 304. Covered home ownership services include property taxes and fees. Home

ownership services payments are only issued to save a home threatened with loss due to:

- Mortgage foreclosure.
- Land contract forfeiture.
- Tax foreclosure or sale.
- Court-ordered eviction of a mobile home from land or a mobile home park.
- Repossession for failure to meet an installment loan payment for a mobile home. ERM 304.

The lifetime home ownership services maximum is \$2,000. The lifetime maximum is the combined cumulative total of all home ownership service payments. Individual services (house payments, property taxes, etc.) do not have separate lifetime maximums.

Eligibility requirements direct the department to issue Home Ownership Services payments only to save a home threatened with loss due to mortgage foreclosure, land contract forfeiture, tax foreclosure, or court ordered eviction of a mobile home from land or a mobile home park.

In addition, **all** of the following conditions must be met (unless specified for a particular service):

- An SER group member is an owner or purchaser of the home, or holds a life estate on the home with the responsibility for home repairs. If the home is co-owned, the cost of the emergency is not split between the co-owners or co-purchasers.
- The home is the SER group's permanent, usual residence.
- The home is not listed for sale.
- The home is not in jeopardy of loss. (This only applies to home repairs.) Deny repairs if there is a house payment or property tax arrearage, unless a workable plan exists for paying the arrearage.
- The ongoing cost of maintaining the home is affordable to the SER group; see ERM 207, Housing Affordability.
- The SER group did not cause the emergency. Do **not** authorize Home Ownership Services if the emergency was client-caused; see ERM 204, Client Caused Emergencies. (Property tax and home repair requests are exempt from the client-caused provision in Item 204.)
- The home is in livable condition and payment will guarantee safe, sanitary shelter both now and in the future. Do not approve any home ownership services payments for homes that are not in a livable condition

or cannot be brought to a livable condition within the remaining SER home repair limit.

- The total amount of tax arrearage for all years does not exceed \$2,000. (This only applies to home ownership for taxes.) Pay only the minimum amount required to resolve the tax emergency. Do not pay until loss of the home is imminent; see Verification below.
- The amount to be authorized does not exceed the home ownership services maximum of \$2,000, the energy-related home repair maximum of \$4,000 or the non-energy-related home repair maximum of \$1,500, and the issuance amount will resolve the emergency. ERM 304.

In this case, Claimant reported that he had just started working at church when he applied for SER on September 30, 2010. Claimant was given an employment verification which had not been turned at the time of the hearing. Claimant was unable to explain why he had not turned in his employment verification. In accord with the applicable departmental policy, SER services are only authorized 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.

Claimant failed to provide proof of income. Departmental policy is to deny SER if the group does not have sufficient income to meet their total housing obligation. Therefore, the department properly denied Claimant SER benefits. ERM 207.

Furthermore, the total amount of tax arrearage for 2008 and 2009 was \$3,421.17. The SER lifetime home ownership services maximum is \$2,000.00. ERM 304. Therefore, SER benefits would also have been denied due to the total amount of property tax arrearages exceeding \$2,000.00.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's SER eligibility.

The Department's SER eligibility determination is AFFIRMED.

SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 20, 2010

Date Mailed: December 20, 2010

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 receipt 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.

VLA [REDACTED]

cc: [REDACTED]