

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-390
Issue No.: 5025
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 18, 2010
DHS County: Wayne (15)

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 November 18, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant is entitled to State Emergency Relief (SER) home ownership assistance?

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. On December 3, 2009, an agent of the Wayne County Treasurer made a Personal Visit to the property at [REDACTED].
2. The Wayne County Treasury agent left a Proof of Personal Visit, stating that a Notice to Show Cause Hearing and Judicial Hearing Notice and Foreclosure Petition were conspicuously left on the property.
3. The Proof of Personal Visit, but not the Notices and the Petition, is in the record in this case. The Proof of Personal Visit is not addressed to any person or persons.

4. In February 2010, the Wayne County Treasurer issued a Notice of Property Tax Delinquency to [REDACTED].
5. On or before August 26, 2010, Claimant requested SER assistance for paying property taxes on the property at [REDACTED].
6. On August 26, 2010, DHS denied SER property tax assistance to Claimant for the stated reason, "Your shelter is not affordable according to SER requirements."
7. On September 21, 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.

I turn first to the ERM to find out what operating policies and procedures are required for a SER application for property tax assistance. The applicable manual Item I find is ERM 304, "Home Ownership." This section states that the Department Policy is:

HOME OWNERSHIP DEPARTMENT POLICY

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....

Covered Services

The following services are covered by this item:

1. Home ownership services.
- ...
- Property taxes and fees.

Home Ownership Services

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

...

- Tax foreclosure or sale.

The lifetime home ownership services maximum is \$2,000.
ERM 304, p. 1.

Also, ERM 304 requires that the applicant verify that she is “an owner or purchaser of the home, or holds a life estate on the home with the responsibility for home repairs.” *Id.*, p. 3.

I read this to mean that people cannot apply for SER benefits to pay taxes on the property of another person. In this case, the record establishes that, in 2009, the [REDACTED] home was owned by [REDACTED], and not by the Claimant in this case. There is nothing before me to establish that Claimant is the owner, in whole or in part, of the [REDACTED] home. I find, therefore, that DHS erred in denying Claimant’s application for the reason that it was unaffordable when, in fact, Claimant never verified ownership of the property in the first place.

Second, ERM 304 on page 6 provides, with regard to property taxes, that a mere notice of delinquency is not a sufficient threat of loss of property to permit DHS to grant SER benefits. Instead, ERM provides that property taxes may not be paid with SER benefits unless and until a foreclosure hearing has been scheduled. A judicial foreclosure hearing notice cannot be scheduled until the delinquency stage and the forfeiture stage, each lasting one year, have expired. This gives the property owner at least two years to pay the back taxes.

Based on the documents before me, I find and conclude that Wayne County declined to act on its right to foreclose on the [REDACTED] home, and offered its owner another two-year window of opportunity to pay the back taxes. I find, therefore, that Claimant, even if she verifies ownership, is entitled to a period of two years in which to pay delinquent taxes. If the Treasurer should schedule a foreclosure hearing in advance of such requirements, Claimant may become eligible for SER benefits at an earlier date.


Accordingly, in addition to my conclusion that there is no proof of ownership, I find and conclude that the required two-year period was not accorded to Claimant in this case. I find that Claimant’s application for SER benefits for property taxes was premature. I

find that DHS erred in denying Claimant's application for the reason that she could not afford to continue the housing obligation, and should have determined that Claimant was ineligible to receive SER benefits because her request was too early.

I determine that DHS shall be REVERSED in this case. DHS is ORDERED to reprocess Claimant's application for SER benefits in accordance with DHS policies and procedures, in particular the requirements of ERM 304. DHS shall provide specific reasons based on ERM requirements for the administrative decision that DHS shall make.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines and decides that DHS is REVERSED. IT IS ORDERED that DHS shall reopen and reprocess Claimant's SER application in accordance with all DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 22, 2010

Date Mailed: November 23, 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.

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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:

