

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-41902

Issue No: 5025

[REDACTED]

Lenawee County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (also referred to as "Claimant") request for a hearing received on June 16, 2011. After due notice, a telephone hearing was held on August 3, 2011. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny Claimant's State Emergency Relief (SER) application because she was not facing a current threat of tax foreclosure/forfeiture or foreclosure from the mortgage company?

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 May 18, 2011. (Department Exhibits 3-7).
2. Claimant requested assistance to pay for her past due property taxes ([REDACTED]) and homeowners insurance ([REDACTED]). (Department Exhibits 3-7).
3. The department mailed Claimant a SER Decision Notice (DHS-1419) dated May 25, 2011 denying assistance for property tax relief because her house was not subject to tax sale at the time. (Department Exhibits 15-16).
4. On May 27, 2011, the department mailed Claimant the SER Decision Notice (DHS-1419) indicating her SER request for home owners insurance had been denied because her home was not currently in foreclosure.

Claimant did not provide a letter of intent from the mortgage company indicating that her home will be put in foreclosure for nonpayment of insurance. (Department Exhibits 13-14).

5. The department received Claimant's request for a hearing on June 16, 2011, protesting the denial of assistance in paying her homeowners insurance and her property taxes. (Hearing Summary).

CONCLUSIONS OF LAW

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its 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. See Michigan Administrative Code (Mich Admin Code) Rule 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

The SER program 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. SER covers home ownership services including: (1) house payments (mortgage, land contract payment or mobile home sales contract) along with principal and interest, legal fees and escrow accounts for taxes and insurance; (2) property taxes and fees; (3) mobile home lot rent for owners or purchasers of mobile homes; and (4) house insurance premiums that are required pursuant to the terms of a mortgage or land contract. ERM 304. SER covers energy-related home repairs. ERM 304. Non-energy related repairs are also covered by the SER program. ERM 304.

Home ownership service payments are only issued to save a home threatened with loss due to mortgage foreclosure, land contract foreclosure, tax foreclosure, or sale, court-ordered eviction of a mobile home from land or a mobile home park, and repossession for failure to meet an installment loan payment for a mobile home. ERM 304.

Policy requires the department obtain verification of foreclosure/forfeiture, eviction from land or from a mobile home park. ERM 304. Verification shall be a court order or written statement from the contract holder or mortgagee that there is a payment arrearage and failure to correct the deficiency may result in foreclosure or forfeiture proceedings. ERM

304. Verification shall also be a court summons, order or judgment that will result in the SER group becoming homeless. ERM 304.

Verification of a property tax sale shall be a statement from a taxing authority verifying total tax arrearage, and a notice scheduling a judicial foreclosure hearing which occurs one year after foreclosure—generally in February. ERM 304.

Policy describes the property tax sale process in the following manner. First, taxes become delinquent. Then, a year later forfeiture occurs and interest and fees increase. One year later, a circuit court hearing is held and foreclosure occurs. ERM 304. Payment of taxes may be made once the client provides a notice scheduling the judicial foreclosure hearing. ERM 304. However, it is not necessary to wait until the judgment has been entered. ERM 304. Once a judgment has been entered, the client must make payment within 21 days of entry of the foreclosure judgment but no later than March 31. ERM 304. Once the March 31 date has passed, ownership is transferred to the county and there is no redemption possible. ERM 304. Policy directs the department to process the application within the standard of promptness or by the date necessary to prevent the loss of the property, whichever is sooner. ERM 304.

Here, Claimant requested SER assistance with payment of her home owners insurance and property taxes. With regard to her request for home owners insurance assistance, Claimant attached to her application a statement from Farm Bureau Insurance Company indicating the amount due to maintain her home owners insurance without a lapse in coverage. This statement, however, did not constitute a threat of foreclosure from her mortgage company due to unpaid homeowners insurance. There is no other evidence that Claimant's home was threatened with foreclosure due to mortgage foreclosure, land contract foreclosure, tax foreclosure, or sale, court-ordered eviction of a mobile home from land or a mobile home park, and repossession for failure to meet an installment loan payment for a mobile home. Therefore, Claimant is not eligible for SER assistance in the form of homeowner's insurance payments from the department at this time.

With regard to Claimant's application for SER assistance for property taxes, Claimant attached to her application a copy of a delinquent tax notice from Lenawee County for 2010. The delinquency notice provided, "If you owe 2009 taxes above, they must be paid by March 31, 2012 to avoid foreclosure." However, Claimant requested assistance for 2010 property taxes, not from 2009. At the time of application, Claimant is not facing a current threat of tax foreclosure or forfeiture. Claimant did not provide a court order or written statement from the contract holder or mortgagee that there is a payment arrearage and that failure to correct the deficiency may result in foreclosure or forfeiture proceedings. Accordingly, Claimant is not eligible for SER assistance for property tax assistance from the department at this time.

Therefore, this Administrative Law Judge finds, based on the material and substantial evidence presented during the hearing, that the department properly denied Claimant's SER eligibility for the reasons stated above.

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.

IT IS SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/12/11

Date Mailed: 8/12/11

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 60 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.

CAP/ds

■ [REDACTED]