

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.: 2011-8026
Issue No.: 5012
Case No.: [REDACTED]
Hearing Date: February 3, 2011
DHS County: Macomb (50-12)

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] hearing request of November 15, 2010. After due notice, a telephone hearing was conducted from Detroit on February 3, 2011. Claimant appeared and testified. The Department of Human Services (DHS) did not appear.

ISSUES

Whether DHS properly denied Claimant's request for 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. At all times pertinent to this matter, Claimant's income was \$0.00.
2. On August 5, 2010, Claimant applied for assistance with arrearages on her home mortgage.
3. On October 21, 2010, Claimant provided DHS with a September 16, 2010, Mortgage Loan Statement showing the total current amount due and the total amount past due.
4. On October 25, 2010, DHS issued a Notice of Case Action denying mortgage assistance to Claimant for the reason that, "Your shelter is not affordable according to SER requirements."

5. On November 15, 2010, Claimant requested a hearing with DHS.

CONCLUSIONS OF LAW

SER was established by 2004 Michigan Public Acts (PA) 344. SER is administered pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Code Rules 400.7001-400.7049. DHS' SER policies are found in the State Emergency Relief Manual (ERM). This Manual is available online at www.michigan.gov/dhs-manuals.

The administrative manuals are 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. It is to the Manual that I look now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

With regard to home ownership, ERM Section 304 states that 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. Home ownership services payments are only issued to save a home threatened with loss due to five situations: mortgage foreclosure, land contract forfeiture, tax foreclosure or sale, court-ordered eviction of a mobile home from land or a mobile home park, or repossession for failure to meet an installment loan payment for a mobile home. The lifetime home ownership services maximum is \$2,000. ERM 304, p. 1.

A second ERM Item is also applicable in the case before me, and that is ERM 207, "Housing Affordability." ERM 207 states as follows:

Housing affordability is a condition of eligibility for State Emergency Relief (SER) and applies only to ... Home Ownership Services and Home Repairs (ERM 304)....

In this item, "total housing obligation" means the total amount the SER group must pay for rent, house payments, mobile home lot rent, property taxes and required insurance premiums....

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 costswill 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.** ERM 207, p. 1 (emphasis added).

I find and conclude as a matter of law that ERM 207 means that if a person does not have an income high enough that their "total housing obligation" is at most 75% of that income, DHS must deny SER benefits for home ownership assistance. Applying the law to the case before me, I find and conclude that as Claimant had no income, she clearly did not have a high enough income in order to cover her "total housing obligation" with 75% of that income.

Accordingly, in conclusion, based on the above findings of fact and conclusions of law, I determine that DHS acted correctly in this case and DHS' action is AFFIRMED. DHS need take no further action in this matter.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge AFFIRMS the Department's decision denying SER home ownership assistance benefits in this case. DHS need take no further action in this matter.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 8, 2011

Date Mailed: February 9, 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.

2011-8026/JL

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:

