

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.: 2011-8666
Issue No.: 5025
Case No.: [REDACTED]
Hearing Date: January 20, 2011
Wayne County DHS (98)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 January 20, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly denied Claimant's State Emergency Relief (SER) application dated 11/8/10 requesting assistance for property taxes.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On 11/8/10, Claimant submitted a SER application requesting assistance with property taxes.
2. At the time of Claimant's application, Claimant verified the following tax arrearage amounts (see Exhibit 1): \$1097.90 for 2007, \$2078.19 for 2008 and \$2814.71 for 2009.
3. Claimant requested only SER assistance for \$1374.31 which was based on the actual tax amount (fees and penalties excluded) for 2008.
4. On 11/18/10, DHS mailed Claimant a State Emergency Relief Decision Notice (Exhibit 2) which denied Claimant's SER request because "the home cannot be brought to a livable condition within the available SER Home Repair limit".

5. On 11/23/10, Claimant requested a hearing disputing the denial of her SER request.

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. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization.

Home ownership services payments are only issued to save a home threatened with loss due to tax foreclosure or sale; SER requests for assistance with property tax arrearages fall under home ownership service regulations. ERM 304 at 1. In addition, all of the following requirements must be met:

- 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.
- The SER group did not cause the emergency. Do not authorize Home Ownership Services if the emergency was client-caused; 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.
- 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. *Id* at 2 and 3.

In the present case, Claimant's tax arrearage from 2007-2009 totals \$5990.80. Thus, Claimant has failed to meet a property tax eligibility requirement because the total tax arrearage exceeds \$2,000.

Claimant contended that she only requested \$1374.31 in assistance from DHS and that this amount does not exceed \$2,000. DHS regulations do not allow clients to request less than the arrearage amount to circumvent eligibility requirements. The DHS eligibility requirement concerning property tax assistance is clear, the total tax arrearage may not exceed \$2,000; there is no exception. The policy makes sense in that any payment less than the total tax arrearage would still make a client vulnerable to foreclosure.

The SER Decision Notice (Exhibit 2) stated that the basis for denial was that "the home cannot be brought to a livable condition within the available SER Home Repair limit". Based on this wording, the undersigned has doubts as to whether the \$2,000 limit on property tax requests was the official basis for SER denial. However, the undersigned is not inclined to find favorably for Claimant simply so DHS can deny the application with a better worded denial. It is found that DHS properly denied Claimant's SER application dated 11/8/10 for property taxes.

Claimant made several objections to the competence of her case worker and stated that she wished to request a new specialist. BAM 600 lists the circumstances in which a hearing may be granted and the issues appropriate for an administrative hearing. The circumstances and issues are: denial of an application and/or supplemental payments, reduction in the amount of program benefits or service, suspension or termination of program benefits or service restrictions under which benefits or services are provided or delay of any action beyond standards of promptness. BAM 600 at 3. Claimant's complaint is appropriate for DHS management, not an administrative hearing. It should also be noted that the undersigned only encountered the highest level of competence and professionalism from Claimant's specialist.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's request for SER assistance with a property tax arrearage. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/25/2011

Date Mailed: 1/25/2011

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.

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.

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