

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: 2011-8963

Issue No: 5012

Case No: [REDACTED]

Hearing Date:

February 3, 2011

Wayne County DHS (41)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 February 3, 2010. The Claimant appeared and testified. The Claimant's attorney [REDACTED] also appeared on his behalf. Lanedra Manley Mathis, FIS and Clovis Screws, FIM appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's SER application for rent assistance due to housing non affordability?

FINDINGS OF FACT

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

1. The Claimant applied, on October 29, 2010, for SER relief for rent, \$599; electricity, \$100; Security Deposit, \$299; and rent insurance, \$60. Exhibit 1
2. The Claimant's SER application was denied on November 5, 2010 by Application Notice for the reason that the Claimant was not entitled to SER because the services requested were not covered under SER policy. ERM 103 Exhibit 2
3. At the hearing, the Department testified that the Claimant was not eligible for the requested SER because the rent was not affordable.
4. Although the Claimant checked off pension on his application, the amount of income was not shown in the space provided. Exhibit 1

5. The Claimant testified that he was not paid the pension but had access to it. However, the application which the Claimant completed does not indicate these facts.
6. The Claimant did not provide the Department, at the time of his SER application with Section 8, rent approval voucher which was provided at the hearing. Claimant Exhibit 1
7. The Department properly determined that the Claimant was not entitled to SER assistance because the Claimant did not demonstrate that he had income to pay for rent and utilities at the time of his application even though the Application Notice did not correctly state the reason the application was denied. Exhibit 2
8. The Claimant requested a hearing on November 12, 2010, which was received by the Department on December 1, 2010, protesting the denial of his application for SER.

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. The Department of Human Services' [formally known as the Family Independence Agency] policies are found in the State Emergency Relief Manual ("ERM").

State Emergency Relief ("SER") prevents serious harm to individuals and families by assisting applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101, p. 1. In order to receive benefits for mortgage assistance applicants must show that the housing, in this case rent, is affordable based upon their current income.

The total housing obligation cannot exceed 75% of the group's total net countable income.

ERM 207 provides:

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 costs plus any utility obligations will 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.

In order to determine eligibility for SER the Department must determine net countable income. The Department is required to look at the 30 day period immediately **following**

the date the Department received the application. ERM 206 page 1. (emphasis supplied).

The Claimant's application was dated October 29, 2010 and thus the Department is required to consider the period covering October 29, 2010 through November 28, 2010 when determining countable income and affordability of rent. During this period the Claimant had no earned income and listed a pension with no dollar amount of income. Based on the information that the Department had available to it at the time of the application the Department properly denied the application for SER as the Claimant could not demonstrate housing affordability. In this instance the Department correctly determined that the Claimant's housing was not affordable.

The Department witnesses testified that it was unaware of the Section 8 housing voucher that was issued to the Claimant. Even if the Department had been aware of the voucher, the voucher cannot be used to demonstrate affordability by including the voucher as unearned or otherwise countable income. ERM 206, page 3 provides that this form of assistance is to be excluded as income and prohibits and excludes as income housing assistance that is paid pursuant to any state or federal law.

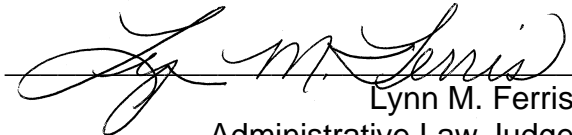
It must be noted that the Department came to the correct conclusion but the Application Notice did not properly state the reason for the SER denial. In light of the fact that the claimant did not demonstrate rent affordability at the time of the application, and the Department correctly denied the application for SER its failure properly deny the application for the correct reason does not require reversal.

Based upon the foregoing analysis it must be found that the Department's denial of the Claimant's SER application was correct and must be affirmed.

The Administrative Law Judge is sympathetic to the Claimant's plight, however the Department properly followed and applied the policy when determining that based on the Claimant's lack of income, the rent was not affordable and thus the Department's decision must be upheld.

DECISION AND ORDER

This Administrative Law Judge decides that the Department was correct in the denial of SER benefits, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 02/15/11

Date Mailed: 02/16/11

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 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.

LMF/dj

cc:

