

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201229027
Issue No.: 5017
Case No.: [REDACTED]
Hearing Date: June 11, 2012
County: Wayne DHS (17)

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 following Claimant's request for a hearing. After due notice, an in-person hearing was held on June 11, 2012 from Detroit, Michigan. Participants included the above named claimant; [REDACTED] appeared on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for State Emergency Relief (SER) for home repairs on the basis that Claimant had a tax lien on her property and/or Claimant did not own the property.

FINDINGS OF FACT

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

1. On an unknown date, presumably within 12/2011, Claimant applied for SER for assistance with a furnace repair.
2. At the time of Claimant's application, Claimant owed over \$7000 in property taxes.
3. On 12/20/11, DHS denied Claimant's SER application requesting home repairs on the basis that Claimant did not own the property and/or owed back taxes.
4. On 12/27/11, Claimant requested a hearing to dispute the SER application denial.

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.

The present case involves a denial of an SER application to repair Claimant's furnace. DHS is to issue home repair payments only if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. ERM 304 at 3. The repair(s) must restore the home to a safe, livable condition. *Id.* SER does not pay for improvements or nonessential repairs. *Id.* In addition, all of the following conditions 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. DHS is to not authorize Home Ownership Services if the emergency was client-caused (see ERM 204); 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.)
- 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.

DHS stated that Claimant's application was denied for three reasons, any of which would justify the application denial. The DHS stated reasons for SER application denial

were because: Claimant owed a large amount in back property taxes, Claimant had a tax lien on her property and that Claimant failed to verify ownership of her residence.

DHS contended that Claimant failed to verify ownership of her residence. DHS stated that Claimant previously reported that she rented, not owned. It was not disputed that Claimant stated that she owned the house on the SER application.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 at 5. DHS is to use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. *Id.*

DHS conceded that no written request was made for Claimant to verify ownership of her residence. DHS contended that Claimant had the obligation to report and verify when she became the owner of her residence. The DHS contention is improper. Claimant reported a change on her SER application and it was DHS' duty to request verification of the change, if verification was required. It is found that DHS improperly denied Claimant's application for a failure to verify ownership.

It was not disputed that Claimant owed \$7000 in back property taxes. DHS contended that a property tax arrearage exceeding \$2000 justified an SER denial. The undersigned thought so too. However, the DHS cited policy applies to SER applications requesting payment of property taxes, not SER applications requesting home repairs. It is found that DHS improperly denied Claimant's application for owing more than \$2000 in a tax arrearage.

Though DHS regulations do not directly justify an SER home repair application denial based on tax arrearages, the denial may be justified if the home "is in jeopardy of loss". Theoretically, a home in jeopardy of loss may be established by a tax arrearage. DHS policy goes on to note that a denial is appropriate unless a workable plan exists for paying the arrearage.

Claimant did not dispute that she had a tax lien on her property. The evidence was unclear, but Claimant seemed to contend that she was in the process of removing the tax lien. It is possible that Claimant had a workable plan for resolving the tax lien. The evidence tended to establish that Claimant informed DHS of the process to remove the lien but DHS advised Claimant that the tax lien had to be removed. The DHS requirement to verify removal of a tax lien appears to be more than what was required by DHS regulations. A workable plan to resolve the tax arrearage is not the equivalent of a requirement to pay the tax arrearage. DHS failed to consider that Claimant had a workable plan to resolve the arrearage even though Claimant reported this information to DHS. It is found that the SER application should not have been denied for the home being in jeopardy of loss.

Based on the presented evidence, DHS failed to establish a proper SER denial requesting home repairs based on: a tax arrearage exceeding \$2000, a failure to verify ownership or Claimant's home being in jeopardy of loss. Accordingly, it is found that DHS improperly denied Claimant's SER application.

It should be noted that DHS provided testimony that Claimant's SER application was dated 12/27/11. This date is known to be inaccurate based on an established denial date of 12/20/11. Claimant could not have applied for something seven days after DHS denied the application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for SER benefits. It is ordered that DHS:

- (1) reinstate Claimant's SER application related to the SER application denial from 12/20/11; and
- (2) process Claimant's SER application subject to the findings: DHS failed to attempt to verify Claimant's home ownership, DHS failed to attempt to verify whether a workable plan existed for paying a tax arrearage and that a tax arrearage exceeding \$2000 is not a basis for denying an SER application requesting a furnace repair.

The actions taken by DHS are REVERSED.



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

Date Signed: June 21, 2012

Date Mailed: June 21, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases).

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail to:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

