

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

IN THE MATTER OF:



Reg. No.: 201278363
Issue No.: 5032
Case No.: [REDACTED]
Hearing Date: March 21, 2013
County: Wayne DHS (19)

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, a telephone hearing was held on March 21, 2013 from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] testified on behalf of Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED] Supervisor, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's State Emergency Relief (SER) seeking assistance with land contract payments.

FINDINGS OF FACT

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

1. Claimant resided in a home which he was purchasing via land contract.
2. On 9/5/12, Claimant applied for SER assistance in paying a land contract arrearage.
3. As of 9/5/12, the owner of Claimant's residence had not begun eviction proceedings against Claimant and had not provided Claimant with any written notice to move.
4. On 9/12/12, DHS denied Claimant's SER application due to Claimant's failure to establish an emergency.
5. On 9/14/12, 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, 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State 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 an SER request for a land contract payment arrearage. The amount of arrearage was not specified. It was not disputed that the land contract title holder had not begun any court proceedings against Claimant, neither at the time of SER application, nor since.

During the hearing, DHS (and the undersigned) assumed that the land contract holder had to initiate court proceedings against Claimant prior to SER approval. DHS policy indicates otherwise.

DHS may issue Home Ownership Services payments only to save a home threatened with loss due to land contract forfeiture. ERM 304 (8/2012), p. 3. Forfeiture is verified by either a:

- court order or a 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; or
 - court summons, order or judgment that will result in the SER group becoming homeless.
- Id.*, p. 5.

The above DHS policy clearly allows a written statement from the land contract holder to serve as a verification of forfeiture, even if court proceedings are not yet undertaken. This policy makes it very tempting to reverse the application denial.

Claimant stated in his hearing request that he did not have an eviction notice and that he was “going to get a notice to move out any day”. Claimant also conceded that he has not been evicted in the six months between his hearing request and the date of hearing.

It was improperly assumed that Claimant needed a court eviction prior to receiving SER assistance, however, the evidence supports finding that Claimant did not receive any written notice from the contract holder which would verify forfeiture. Accordingly, the SER application denial is found to be proper. Nothing would prevent Claimant from reapplying once he receives a written notice from his landlord.

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 SER application dated 9/5/12 requesting assistance with a land contract payment arrearage. The actions taken by DHS are AFFIRMED.



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

Date Signed: 3/28/2013

Date Mailed: 3/28/2013

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

CG/hw

cc:

