

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 200931950
Issue No.: 5016
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 19, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, an in-person hearing was held on August 19, 2010. The Claimant appeared with her authorized representative, [REDACTED] and testified [REDACTED], FIM appeared on behalf of the Department.

ISSUE

Was the Department correct in denying Claimant's SER application?

FINDINGS OF FACT

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

- (1) Claimant applied for SER benefits on April 30, 2009.
- (2) Claimant's application for SER was denied on May 27, 2009 because the outstanding bill was addressed in a bankruptcy proceeding.
- (3) Claimant presented verification that her bankruptcy action was dismissed in July 2008.
- (4) Claimant requested a hearing on June 3, 2009 contesting the denial of her SER application.

CONCLUSIONS OF LAW

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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. When the group's heating or electric service for their current residence is in threat of or is already off and service must be restored, payment may be authorized to the provider up to the fiscal year cap. Payment must resolve the emergency by restoring or continuing the service for at least 30 days. ERM 301.

In the present case, Claimant requested hearing on June 3, 2009 requesting assistance with an electric utility bill. Initially, Claimant was approved for the benefit, but when the Department discovered that the bill had been addressed in bankruptcy court the application was denied on that basis. Records from DTE presented by the Department at hearing had a notation regarding a bankruptcy action. No evidence was presented by the Department explaining what the notation means.

Claimant asserted at hearing that her bankruptcy had been dismissed and that the bill remains outstanding. Claimant submitted a certificate of mailing showing that an “Order dismissing case upon trustee affidavit” was issued in Case No [REDACTED] by the Chapter 13 Trustee [REDACTED] on July 30, 2008.

This Administrative Law Judge finds that the Department was incorrect to deny the application for SER on the basis of the bill being addressed in bankruptcy court because at the time of the denial by the Department the bankruptcy had been dismissed.

DECISION AND ORDER

This Administrative Law Judge decides that the Department was incorrect in the denial of SER benefits, and it is ORDERED that the Department’s decision in this regard be and is hereby REVERSED. Claimant’s application for SER benefits shall be reinstated and reprocessed.

Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

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Date Signed: _____

Date Mailed: _____

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.

AM/hw

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