

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.: 2010-45401
Issue No.: 5020
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 3, 2010
DHS County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on November 3, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly processed Claimant's State Emergency Relief (SER) benefits?

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 April 23, 2010, Claimant applied for SER to pay for electric and gas expenses.
2. Claimant requested \$1,230 in home energy assistance.
3. Claimant owed the DTE Energy Company \$236.92 for electricity service and \$1,051.28 for gas service, totaling \$1,288.20.
4. Claimant has a household size of three persons and her gross monthly income is \$2,374.

5. On May 12, 2010, DHS determined that Claimant was eligible for SER but, in order to receive \$61.27 SER benefits, Claimant would have to make a co-payment of \$1,226.93.
6. On May 25, 2010, DHS denied SER benefits to Claimant.
7. On April 25, 2010, Claimant submitted a hearing request to DHS.

CONCLUSIONS OF LAW

SER was established by 2004 Michigan Public Acts 344. SER is administered pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Code Rules 400.7001-400.7049. DHS policies and procedures are found in the SER Manual (ERM). This manual is available online at www.michigan.gov/dhs-manuals.

ERM is the source of the policies and procedures of DHS with regard to the SER program. I look to this manual to determine the policies and procedures DHS must follow in providing home utility assistance to its customers. The manual item that is applicable in this case is ERM 301, "Energy Services."

The first paragraph of ERM 301 sets forth the Department Policy in regard to energy services, as follows:

DEPARTMENT POLICY

Low-income households who meet eligibility requirements in this item can receive assistance to help them meet their household heat and electric costs. Funding for energy services assistance is through the Low Income Home Energy Assistance Program (LIHEAP).

COVERED SERVICES

Heating, Electric or Deliverable Fuels

When the group's heating or electric services for their current residence is or will be shut off, or payment is necessary to restore service, authorize payment for the shutoff or restoration amount to the provider up to the fiscal year cap. Payment must restore or continue the services for at least 30 days. Also, pay the necessary charges to deliver

a 30-day supply of a deliverable fuel. A full tank is considered a 30-day supply. ERM 301, p. 1 of 9.

In this case, DHS determined that Claimant was, in fact, eligible for SER assistance in the amount of \$61.27, but, based on her income, Claimant's co-pay would be \$1,226.93. DHS then determined that it would deny assistance completely to Claimant, even though she was entitled by law to SER assistance in the amount of \$61.27.


DHS' internal document, "SER – Income Copayment Allocation," states that a DHS supervisor decided that a denial was appropriate in this situation, and noted, "Supervisor feels that the responsibility remains on client." DHS never gave the Claimant an opportunity to make the co-payment and receive the \$61.27 award. Instead, per the supervisor's decision, SER benefits were denied to Claimant in their entirety.

I have reviewed all of the evidence and testimony in this case, as well as all applicable DHS policies and procedures. In this case, I find and conclude that DHS substituted its judgment in place of the legal requirements of ERM 301, and wrongfully denied SER to Claimant. I find and conclude that DHS should have approved SER and offered Claimant the opportunity to which she was entitled under law, that is, the right to make the co-payment and receive the \$61.27 help with her utility bills. I find that DHS disregarded its own policy when it categorically denied SER benefits, instead of providing Claimant the option to which she is entitled under DHS policy.

In this case, I find that the supervisor allocated the entire responsibility for payment to Claimant without regard to the policy, which provides help to customers regardless of whether the co-pay is higher than the SER award. Here, the supervisor made an administrative decision to deny benefits without regard to the importance of \$61.27 to a family of three persons. I conclude that DHS is REVERSED. DHS is ORDERED to reopen and reprocess Claimant's SER application in accordance with all policies and procedures.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, decides and concludes that DHS is REVERSED. It is ORDERED that DHS shall reopen and reprocess Claimant's SER application in accordance with all DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 9, 2010

Date Mailed: November 9, 2010

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.

JL/pf

cc:

