

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

IN THE MATTER OF:



Reg. No: 201049714
Issue No: 5016
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 22, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on July 7, 2010. After due notice, a telephone hearing was held on Wednesday, September 22, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's State Emergency Relief (SER) eligibility?

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 submitted a SER application on June 25, 2010.
2. The Department denied the Claimant's SER application on June 28, 2010, because her emergency had already been resolved.
3. The Department received the Claimant's request for a hearing on July 7, 2010, protesting the denial of her SER application.

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.

Family Independence Agency (FIA or agency) policies are found in the State Emergency Relief Manual (ERM).

Low-income households who meet eligibility requirements in this item can receive assistance to help them meet their household heat and electric costs. ERM 301. The Department must be able to verify the actual or threatened shutoff or need for reconnection of natural gas or electricity by contact with the utility company before an SER application can be approved. ERM 301.

The Claimant submitted an SER application on June 25, 2010, requesting assistance with a Consumer's Energy bill. The Department contacted Consumer's Energy to verify that the Claimant faced an actual or threatened shutoff of utility services. The Department denied the Claimant's SER application on June 28, 2010, when it could not verify that the Claimant faced a utility shutoff.

The Claimant testified that she was not facing a shutoff because she paid what she could towards her utility obligation. The Claimant testified that her obligation was higher than it should have been because the Department had cancelled payment on a previous SER application that had been approved. The Claimant testified that she submitted a SER application on July 16, 2009, and was approved, but that the Department later cancelled the payment causing her bill to go up.

SOAHR may grant a hearing about any of the following:

Denial of an application and/or supplemental payments.

Reduction in the amount of program benefits or service.

Suspension or termination of program benefits or service.

Restrictions under which benefits or services are provided.

Delay of any action beyond standards of promptness.

For FAP only, the current level of benefits or denial of expedited service. BAM 600.

The AHR or, if none, the client has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600.

This administrative law judge does not have the authority to conduct a hearing on the issue of whether the Department cancelled a SER payment from an application submitted on July 16, 2009, because a hearing request on this issue is untimely. The Department testified that the Claimant received SER benefits on August 25, 2010. The Claimant has not established that there was a denial of payments associated with her July 16, 2009, SER application that this administrative law judge has the authority to decide upon.

Concerning the Claimant's SER application submitted on June 25, 2010, the Department properly denied the SER application because the Claimant was unable to establish that she faced an actual or threatened utility shutoff.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's SER eligibility.

The Department's SER eligibility determination is AFFIRMED. It is SO ORDERED.

_____/s/

Kevin

_____ Scully

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

Date Signed: October 12, 2010

Date Mailed: October 13, 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 60 days of the filing of the original request.

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.

KS/alc

cc:

[REDACTED]