

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2010-11661
Issue No: 5016
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 22, 2010
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on July 22, 2010. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny the claimant's State Emergency Relief (SER) application in August, 2009?

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 for help with a natural gas bill on August 14, 2009. (Department Exhibit 2)
2. On August 17, 2009, the gas provider website inquiry showed the claimant was not in shut-off status, but had entered into a payment arrangement. (Department Exhibit 1)

3. The department mailed the claimant a SER Decision Notice (DHS-1419) on August 26, 2009, informing the claimant that her request had been denied because she was not in shut-off status. (Department Exhibit 4)

4. The claimant submitted a hearing request on September 8, 2009.

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 (DHS or department) policies are found in the State Emergency Relief Manual (SER).

Department policy indicates:

Residence in the State of Michigan is not required. SER serves all persons physically present in Michigan. In addition, SER applicants must:

- Complete the application process
- Meet financial and non-financial requirements
- Have an emergency which threatens health or safety and can be resolved through issuance of SER
- Take action within their ability to help themselves, i.e., obtain potential resources and/or apply for assistance
- Not have caused the emergency (ERM, 204, Client-Caused Emergency)
- Cooperate in providing information about income, assets, living arrangements, and other persons living in the home

Deny SER services for applicants who fail to meet any of the above requirements. ERM, Item 101, p. 1.

Standard of Promptness

Give priority to SER applicants when there is a direct threat to health or safety requiring immediate attention.

The SER standard of promptness is 10 calendar days, beginning with the day the signed SER application is received in the local office.

- Do not use the standard of promptness as a basis for denial of SER applications.
- Continue to pend an application if the SER group is cooperating within their ability to provide verifications.
- Deny the application if the group does not cooperate.

Note: There is no standard of promptness adjustment for holidays, weekend or non-business days. The case record must include documentation of the reason for any delay in processing the application beyond the standard of promptness. ERM, Item 103, p. 4.

VERIFICATION OF NEED

Verify actual or threatened shut off or need for reconnection of natural gas or electricity by written notice from, or telephone call to, the utility company.

Verify the need for deliverable fuels by the statement of the group.

Document need in the SER packet (See PAM, Item 300).

An actual bill must be obtained from the provider before authorizing a DHS-849 payment. In the absence of an actual bill, a fax or email received directly from an individual designated by the energy provider is acceptable as long as it includes all the pertinent information that would be included on the actual bill

Exception: In the event that a provider is uncooperative in providing an actual bill, FAX or email, the DHS-223, Documentation Record, will be allowed as long as it is used as an exception process only.

Documentation on the DHS-223 must include the date, time and amount needed to prevent shut off and the name of the person at the utility company who provided the information. Photocopies of bills will not be accepted.

The original bill, fax, email or DHS-223 must be attached to the original DHS-849 and/or signed FATH/FEMR transaction page (screen print) and forwarded to the fiscal unit. See ERM 401 for the proper use of the DHS-849. ERM, Item 301, pp. 6-7.

In this case, the claimant is disputing the department's denial of her SER application for assistance with a natural gas disconnection. The claimant submitted a SER application and a copy of a DTE Energy bill on Friday August 14, 2009. The department checked the utility provider's website on Monday August 17, 2009 to verify the shut-off status in accordance with ERM 301. The information from DTE showed that the claimant was not in shut-off status anymore, but had been reconnected and made payment arrangements. There was no shut-off date.

The claimant testified that if the department had acted on her request the day she submitted the application, she would have still been in shut-off status and the department could have authorized payment. The claimant testified that she had to pay \$100 on Monday August 17, 2009 to have the gas turned back on.

The claimant may have submitted her SER application on August 14, 2009, but department policy indicates that the standard for promptness on SER applications is ten calendar days, beginning with the day the signed SER application is received in the local office. ERM 103. Further, department policy does require the department to verify the shut-off status with the company. Thus, there is no requirement that the department act on the information the same day it is received.

The department checked the utility website on Monday August 17, 2009 and by that time the claimant was no longer in shut-off status. As department policy requires the claimant to be in shut-off status, the department could not authorize the SER payment.

It is noted that the claimant did receive an SER payment for her gas services in October, 2009 when she was again in shut-off status.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department did act in accordance with policy when they denied the claimant's SER application as she was not in shut-off status when they verified the account.

Accordingly, the department's decision is UPHELD. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 24, 2010

Date Mailed: August 24, 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.

SLK [REDACTED]

cc: [REDACTED]