

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.: 2010-46747
Issue No.: 5016
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: November 3, 2010
DHS County: Wayne (17)

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 October 3, 2010. Claimant appeared and testified. [REDACTED]

[REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether DHS properly determined Claimant's State Emergency Relief (SER) gas and electric benefits?

FINDINGS OF FACT

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

1. On May 21, 2010, Claimant applied for SER benefits to pay gas and electric bills.
2. On May 26, 2010, DHS approved payment of \$850 on Claimant's electric bill and \$850 on Claimant's gas bill.
3. Claimant is unable to pay the remaining balances on the two accounts.
4. On June 2, 2010, Claimant filed a hearing request with DHS, requesting that DHS pay the remaining balances on the two utility accounts.

CONCLUSIONS OF LAW

SER was established by 2004 Michigan Public Acts 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by Michigan Administrative Code Rules 400.7001-400.7049. DHS policies are found in the State Emergency Relief 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 the manual to determine what policies and procedures DHS must follow in providing home utility benefits 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 DHS 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.

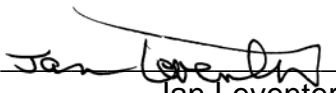
ERM 301 also lists the amounts of the fiscal year caps for each type of energy service. The fiscal year caps for the two services requested by Claimant are \$550 for each service, and Claimant does not dispute that DHS, in fact, awarded her \$850 for each service. At the hearing, Claimant requested assistance with the remaining balances on the two utility bills and gave credible and un rebutted testimony that she cannot afford to pay the balances on the two accounts. *Id.*, p. 7.

While I am entirely sympathetic to Claimant's situation, I am also mindful that the SER program has monetary limitations and cannot always provide all of the assistance that a customer requests. Claimant is a particularly needy individual in that she has two disabled children and is presently pregnant. However, I do not have the authority to award assistance beyond the fiscal year caps, which are the legal limits on the money that can be awarded. The fiscal year caps are the legal limit and, however unsatisfactory the caps may be, it is not in my power to change them. Unfortunately, utility assistance is a situation in which DHS can provide only limited assistance to customers.

I have reviewed all of the testimony and evidence in this case as well as the applicable DHS policies and procedures. I find that DHS properly awarded Claimant utility assistance from the SER program and that she was awarded the maximum allowable amount, indeed, perhaps even more than the maximum amount. I therefore AFFIRM DHS' action in this case in awarding SER benefits to Claimant at the legally maximum amounts. DHS need take no further action in this case.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS DHS' award of SER home energy assistance benefits to Claimant in the amounts that DHS awarded them. DHS need take no further action in this case.



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.

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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:

