

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201143639
Issue No.: 5016; 5017; 5018
Case No.: [REDACTED]
Hearing Date: September 21, 2011
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on September 21, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included Linda Bridgeforth, Family Independence Manager, and Sandra Dinkins, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's request for State Emergency Relief (SER) assistance?

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 March 25, 2011, Claimant applied for SER assistance for home ownership, energy and utility services.
2. On March 28, 2011, the Department sent Claimant a SER Decision Notice.
3. On April 4, 2011, the Department received Claimant's hearing request, protesting the SER decision.

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 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Additionally, in this case, Claimant requested a hearing in connection with SER assistance for home ownership services, home repair services, energy services, and utility services.

Home Ownership Services Assistance

The Department denied Claimant's request for SER assistance with home ownership services because the home was not in foreclosure. Home ownership services are available to save a home threatened with loss due to mortgage foreclosure. ERM 304. Evidence of a foreclosure consists of (i) a court order or a written statement from the contract holder or mortgagee that there is a payment arrearage and failure to correct the deficiency may result in foreclosure or forfeiture proceedings or (ii) a court summons, order or judgment that will result in the SER group becoming homeless. ERM 304.

In this case, Claimant's SER application included a [REDACTED] statement with a date of December 31, 2010, which indicated a past due amount of \$2,440.83 but did not reference or threaten foreclosure. At the hearing, however, Claimant testified that he also submitted a notice from [REDACTED] dated of March 24, 2011, with his SER application. The letter referenced an outstanding amount of \$2,400.27 and stated that "[i]f the amount due is not received by the specified due date, foreclosure proceedings may begin or continue." This notice by Claimant's mortgagee was sufficient to establish under ERM 304 that Claimant's home was threatened with loss due to mortgage foreclosure and would entitle Claimant to SER assistance for home ownership services. Accordingly, the Department should have processed Claimant's request for SER assistance for home ownership services. Although the Department denied receiving the notice with Claimant's SER application, Claimant credibly testified that he provided the notice with his application. Further, the Department was on notice of outstanding amounts owed by Claimant on his mortgage based on the December 31, 2010, [REDACTED] statement and should have requested additional information concerning the status of his mortgage. BAM 105. Thus, the Department improperly denied Claimant's request for home ownership services assistance on the basis that the home was not in foreclosure.

Home Repair Services

Claimant also requested a hearing in connection with the denial of assistance for home repair services. However, Claimant conceded that he had not requested home repair service assistance on his March 25, 2011 SER application and had not provided any documentation to support a claim for home repair service assistance. Therefore, the Department properly did not consider this issue.

Energy Services

Claimant also sought SER assistance with his gas and electrical bill from DTE. The Department verified with the provider that Claimant owed \$51.77 for electrical services and \$678.74 for gas heating at the time of his SER application. The Department paid the entire \$51.77 bill for electrical services. However, it refused to pay any amount outstanding to DTE for gas services on the basis that the Department had previously assisted Claimant with gas services up to the fiscal year cap of \$350. However, at the time Claimant submitted his SER application on March 25, 2011, the cap for residential gas assistance was \$550, not \$350, for the fiscal year October 1, 2010 to September 30, 2011. ERM 301. By failing to consider the correct payment limit amount in assessing Claimant's request for SER assistance with his gas services, the Department failed to comply with Department policy.

Utility Services

The Department agreed to pay \$175 towards Claimant's outstanding water bill of \$1,285.25 after Claimant's payment of a required contribution of \$936.19. While the Department may approve payment to a water provider up to \$175, the applicable fiscal year cap for utility services, such payment is permitted only if it will resolve the emergency and if the provider will maintain or restore service for at least 30 days. ERM 302. In this case, Claimant testified that he did not have adequate funds to pay his required contribution, and the Department testified that the water provider had refused to accept its payment of \$175 as payment in full for all outstanding amounts owed for water services. Because the Department's payment of \$175 to the water provider would not have resolved Claimant's emergency, the Department properly followed Department policy when it denied Claimant's request for SER assistance with his water bill.

Based on the above Findings of Fact and Conclusions of Law, and for reasons stated on the record, the Administrative Law Judge concludes that the Department

properly denied improperly denied
Claimant's SER application for assistance with home ownership services.

properly denied improperly denied
Claimant's SER application for assistance with home repair services.

properly denied improperly denied
Claimant's SER application for assistance with energy services (gas).

properly denied improperly denied
Claimant's SER application for assistance with utility services.

DECISION AND ORDER

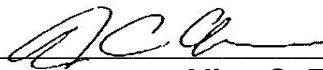
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for reasons stated on the record, finds that the Department

did act properly. did not act properly.

Accordingly, the Department's decision is AFFIRMED IN ITS ENTIRETY REVERSED IN ITS ENTIRETY AFFIRMED IN PART with respect to Claimant's request for SER assistance with home repair services and water services and REVERSED IN PART with respect to Claimant's request for SER assistance with home ownership services and gas services for the reasons stated above.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's March 25, 2011, SER application;
2. Reprocess Claimant's request for SER assistance for home ownership services and gas services and apply any assistance provided to Claimant to fiscal cap amounts available to Claimant during the October 1, 2010, to September 30, 2011, fiscal year; and
3. Notify Claimant in writing of the Department's decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/10/11

Date Mailed: 10/10/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,

- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/dj

cc:

