

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

IN THE MATTER OF:



Reg. No.: 201147878
Issue No.: 5016
Case No.: [REDACTED]
Hearing Date: October 26, 2011
County: Wayne (15)

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 October 26, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included Diane Coles, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with energy or utility service(s)?

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 October 7, 2009, Claimant applied for SER assistance with energy or utility service.
2. On March 16, 2010, the Department sent notice of the application denial to Claimant.
3. On April 1, 2010, the Department received Claimant's hearing request, protesting the SER denial.

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, SER assistance is available to assist with a client's payment of an arrearage to maintain or restore service for water and sewer services and is intended to prevent or restore the shut off of a utility. ERM 302. At the hearing, the Department testified that Claimant's request for SER assistance in connection with her outstanding water and sewer bill was denied because she had failed to provide a shut-off notice. However, the Department policy does not require a client to submit a disconnect notice with respect to utility services. Rather, when a client completes a SER application for assistance with utility services, the Department is required to verify an actual or possible shut-off of water or sewage services by obtaining (i) a disconnect notice from the provider, (ii) information from the utility provider's secure website, or (iii) an overdue or delinquency notice when the water or sewage service is not disconnected but the arrearage is added to the local tax bill. ERM 302. A client is not required to submit a shut-off notice with his or her SER application. See RFF 1514. Furthermore, the Verification Checklist the Department sends out to clients requesting verifications with respect to SER applications requires clients to submit "current bills or receipts for . . . water and sewage"; it does not require a disconnect or shut-off notice. RFF 3503. In this case, the Department did not allege that Claimant had not provided a water bill showing the outstanding \$3637.45 indicated on her SER Decision Notice. Rather, the Department testified that it based its decision to deny Claimant's SER request on her failure to provide a shut-off notice. Because Department policy does not require a shut-off notice with respect to SER applications requesting assistance with utility services, the Department improperly denied Claimant's SER request on the basis that she had failed to provide a shut-off notice.

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 energy and utility services.

DECISION AND ORDER

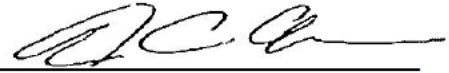
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for reasons stated on the record, finds that the Department
 did act properly. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED 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. Remove the negative case action denying Claimant's October 7, 2009 SER application for assistance with water and sewer services;

2. Begin reprocessing the application;
3. Notify Claimant in writing of its decision in accordance with Department policy.



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

Date Signed: 11/01/11

Date Mailed: 11/03/11

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:

