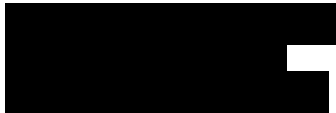


STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201112909

Issue No:



Case No:

Hearing Date:

April 7, 2011

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on December 22 and December 27, 2010. After due notice, a telephone hearing was held on April 7, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly denied Claimant's State Emergency Relief (SER) application?

FINDINGS OF FACT

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

1. Claimant applied for State Emergency Relief (SER) on December 14, 2010, for assistance with her Consumers Energy electric bill. (Hearing Summary).
2. On December 15, 2010, the department emailed Consumers Energy requesting a 6 month payment history because she applied for public assistance to prevent their electric from being shut off. (Department Exhibit 7).
3. The department received a response from Consumers Energy on December 17, 2010, stating that Claimant had an active installment plan on her account, which Claimant made on December 17, 2010, that would prevent the shutoff through mid-February as long as Claimant made her payments. (Department Exhibit 6).
3. On December 20, 2010, the department mailed Claimant an Application Notice informing her that she was not eligible for SER because she had already resolved her own emergency and Claimant's application for SER was denied. (Department Exhibits 8-9).
4. Claimant submitted multiple hearing requests on December 22 and December 27, 2010 protesting the denial of her SER application. (Requests for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 states:

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 provided through the Low Income Home Energy Assistance Program (LIHEAP). ERM 301.

When the group's heating or electric service for their current residence is in threat of or is already off and service must be restored, payment may be authorized to the provider up to the fiscal year cap. Payment must resolve the emergency by restoring or continuing the service for at least 30 days.

To be eligible for energy service assistance, an SER group must make required payments toward their energy service bills unless the case is categorically eligible. The required payment amounts are based on the group size and service (heat or electric).

The energy required payment period is the six-month period prior to the month the SER group applies for assistance, regardless of previous approvals. It applies even if the client has never requested or received SER energy services in the past six-months. For example, if the group applies for heating assistance on January 13, the required payment period is July through December.

Energy required payments are met if the amounts paid by the group for heating fuel and/or electricity equal or exceed the table amounts for the required payment period. Required payments must be met for each month the SER group has an obligation to pay for the service. Failure to make required payments may result in a shortfall.

Previously issued SER funds cannot be used to make required payments. Contributions from any other source, including Home Heating Credits applied to the group's account, can count toward required payment amounts.

If required energy payments have not been met, Bridges will determine if good cause for non-payment exists. Failure to make required payments without good cause may result in a shortfall. If the group fails to meet good cause criteria, give them the opportunity to make required payments.

If good cause does not exist, the shortfall must be paid before any SER payment can be authorized. The group has 30 calendar days, beginning with the date of application, to provide verification to the worker that the shortfall payment has been made or will be made by another agency or organization. A shortfall cannot be waived.

Once the client returns the verification, the worker must enter the information in Bridges on the Client Paid Amounts screen. If the client fails to provide verification by the deadline, the worker must complete the Client Paid amounts screen by indicating that the verification was not received. No SER payment will be made if the client fails to return verification by the deadline.

The department verifies that required payments have been made by:

- Receipts from the provider(s).
- Statement from the provider(s).
- Phone call/fax/email from the provider(s).
- Provider's secure Web site.

A DHS-1419, SER Decision Notice, is sent to the client for every energy request. The notice must include the required payment amounts to inform the client of their obligation. The department must verify actual or threatened shutoff or need for reconnection of natural gas or electricity by contact with the utility company. Contact can be in the form of a written notice, telephone call, fax, email or information on the provider's secure website. The department may verify the need for deliverable fuels by the statement of the group.

To verify the cost of the emergency, an actual bill must be obtained from the provider before authorizing a payment. In the absence of an actual bill, a fax or email received directly from the energy provider is acceptable as long as it includes all the pertinent information that would be included on the actual bill.

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, amount needed to resolve the emergency 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 forwarded to the fiscal unit.

The department may approve payments up to the fiscal year cap if it will resolve the emergency and if the energy provider will maintain or restore service for at least 30 days. Approvals will not be authorized for any energy services payment that will not resolve the current emergency, even if the payment is within the fiscal year cap.

Several energy companies now allow clients the ability to access their energy account information via their company's Web site. This may be helpful if the client receives a shut-off notice and requests SER assistance. Each energy company has different requirements and provides different information.

In this case, Claimant requested assistance in paying her electric bill of \$439.63 to Consumers Energy. To be eligible for energy service assistance, Claimant must have made the required payments toward her energy service. When the department contacted Consumers Energy to request the previous 6 month payment history, Consumers Energy stated that Claimant had agreed to an installment plan and the electricity would not be shut off as long as she made

timely payments. The department then denied Claimant's SER application because she had resolved her own emergency.

The department stated that Claimant was informed through various emails that the department would only be able to assist her if she contacted Consumers Energy and removed herself from the installment plan and reapplied for the SER. Claimant stated that nowhere in the various emails was she told to contact Consumers Energy to have herself removed from the installment plan, otherwise she would have. Claimant testified that she is new to having to apply for public assistance and did not know that she would have to forego the installment plan to get SER when all she was trying to do was keep the heat on in her home.

The Administrative Law Judge reviewed the emails the department provided from Claimant with their responses. Claimant is correct in that the department never instructs Claimant that she must contact Consumers Energy and have herself removed from the installment plan in order to be eligible for SER. The email in question states, "I would suggest contacting Consumers Energy and then filing a new application for assistance if needed."

During the hearing, the department explained that Claimant could still remove herself from the installment plan, but because she was no longer receiving Food Assistance, she was no longer categorically eligible to receive SER, and would have to reapply. Claimant indicated that she understood that she could stop making the payments and ask Consumers Energy to remove her from the installment plan and once she received a shutoff notice, she could take that shutoff notice to the department and file a new application for assistance.

Therefore, in accordance with departmental policy, the Department has established that Claimant was eligible for SER benefits to pay her electric bill and once she agreed to the installment plan, she had resolved the emergency and was no longer eligible for SER. The Administrative Law Judge finds that based on the information received from Consumers Energy, the department acted properly in denying Claimant's SER application.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted properly by denying Claimant's SER based on the information they received from Consumers Energy that she had enrolled in the installment plan, and thus was no longer in danger of being shutoff.

Accordingly, the department's SER eligibility decision is UPHELD.

It is SO ORDERED.

/s/ \_\_\_\_\_  
Vicki L. Armstrong  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: April 13, 2011

Date Mailed: April 13, 2011

**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 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.

VLA [REDACTED]

cc:

[REDACTED]