

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-24294
Issue Nos.: 5016, 5017, 5025
Case No.: [REDACTED]
Hearing Date: May 11, 2011
DHS County: Wayne (82-49)

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 [REDACTED] hearing request of March 8, 2011. After due notice, a telephone hearing was conducted on May 11, 2011. Claimant appeared and testified. [REDACTED], appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether DHS denied Claimant's request for State Emergency Relief (SER) home repair, energy services and property tax assistance in accordance with its policies and procedures?

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 January 25, 2011, Claimant applied for SER for assistance with her property taxes, with her water bill, and for a furnace replacement.
2. Claimant's property taxes to Wayne County are delinquent.
3. Claimant has not been issued a shutoff notice by the City of Detroit Water and Sewage Department.
4. At the time of Claimant's application, DHS did not have SER funds for home repairs.

5. On February 10, 2011, DHS issued a SER Decision Notice denying assistance to Claimant for all three requests.
6. On March 8, 2011, Claimant requested a hearing with DHS.

CONCLUSIONS OF LAW

SER was established by 2004 Michigan Public Acts (PA) 344. SER is administered pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.7001-400.7049. DHS' SER policies are found in the State Emergency Relief Manual (ERM). This Manual is available online at www.michigan.gov/dhs-manuals.

ERM is a policy and procedure document DHS officially created for its own use. While ERM is not law created by the U.S. Congress or the Michigan Legislature, it constitutes legal authority which DHS must follow. It is to ERM that I look now in order to see what policies apply in this case. After setting forth what the applicable policies are, I will examine whether they were followed in this case.

With regard to Claimant's property taxes and the furnace replacement, ERM Section 304, "Home Ownership," applies. ERM 304 states that property tax assistance can only be provided when the home is threatened with loss due to a tax foreclosure or sale. As Claimant is not faced with either of these emergencies, I find and conclude that DHS properly applied its policies in this case in denying Claimant property tax assistance at this time. DHS is AFFIRMED with regard to its denial of property tax assistance to Claimant. ERM 304, p. 1.

DHS' policy on providing home repairs is that DHS "assists with home repairs to correct unsafe conditions and restore essential services." The lifetime maximum benefit for furnace replacement is \$4,000. ERM 304 lists furnace replacement as an energy-related home repair for which SER can be provided through the Low Income Home Energy Assistance Program (LIHEAP). *Id.*, pp. 1-3.

With regard to LIHEAP, at the hearing, DHS gave no testimony as to the availability of funds through this program. I find therefore that it is necessary to REVERSE DHS' denial of LIHEAP funds, reinstate her home repair application for a furnace replacement, and order DHS to reprocess it under the requirements of LIHEAP.


Third and last, Claimant requested SER for her City of Detroit Water and Sewage bill. This request is governed by ERM 301, "Energy Services." This policy requires that there must be a threat that the utility will be shut off or, if it is already shut off, there must be proof that it is necessary to restore it. I find and conclude that neither of these

emergencies existed in this case. DHS correctly denied SER energy services to Claimant in this case and I AFFIRM the action DHS took.

In conclusion, based on the above findings of fact and conclusions of law, I determine that DHS is PARTIALLY AFFIRMED and PARTIALLY REVERSED. DHS need take no further action in this matter with regard to Claimant's energy services and property taxes. DHS shall reinstate and reprocess Claimant's SER application solely with regard to her request for a furnace replacement.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge PARTIALLY AFFIRMS and PARTIALLY REVERSES DHS' decision. DHS need take no further action with regard to Claimant's SER application for energy services and property taxes. IT IS HEREBY ORDERED that DHS shall reinstate and reprocess Claimant's SER application for furnace replacement only, and provide SER benefits in accordance with this opinion, DHS eligibility requirements and all other policies and procedures in effect.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 12, 2011

Date Mailed: May 16, 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.

2011-24294/JL

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:

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