

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201151145
Issue No.: 5016
Case No.: [REDACTED]
Hearing Date: September 28, 2011
County: Oakland DHS (03)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 28, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED], Manager.

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 an unspecified date, Claimant applied for SER assistance with energy or utility service.
2. On 4/18/11, the Department sent notice of the application denial to Claimant.
3. On 5/9/11, 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, low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 at 1. When the group's heat or electric service for their current residence is in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. *Id.* The amount of the payment is the minimum necessary to prevent shutoff or restore service, up to the fiscal year cap. *Id.* Payment must resolve the emergency by restoring or continuing the service for at least 30 days. *Id.*

DHS implements self-imposed deadlines so that services may be issued within a timely manner. The SER standard of promptness is 10 calendar days, beginning with the date the signed SER application is received in the local office. ERM 103 at 1.

In the present case, Claimant applied for SER assistance (energy) on an unspecified date. It is known that DHS denied the application on 4/18/11 due to an alleged failure by Claimant to return verifications. It is also known that DHS must request verifications for SER and allow eight days for the return of the documents (see *Id.* at 5). Thus, the SER application must have been submitted at least eight days prior to the denial date of 4/18/11, presuming DHS waited the eight days required before denying the SER application due to a lack of verifications.

DHS conceded that Claimant timely returned the verifications and the application denial for failure to verify information was improper. DHS indicated when Claimant's application was reconsidered in 5/2011, Claimant resolved her emergency by making a payment to her energy company, which resolved the shut-off threat. DHS denied Claimant's application again, the second time because there was no emergency to resolve because Claimant stopped the emergency by making a payment.

DHS should not penalize clients who are forced to seek alternative methods of resolving emergencies solely because of DHS delays and errors. When DHS reevaluated Claimant's SER application in 5/2011, they should have reconsidered the application in the context of the original application date and standard of promptness. As of ten days following the application date, Claimant had not resolved the emergency. Claimant resolved the emergency in 5/2011, long past the 10 day standard of promptness to correctly process Claimant's application. It is found that DHS erred in denying Claimant's SER application based on a lack of emergency.

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.

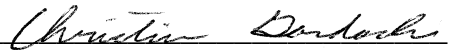
DECISION AND ORDER

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 on the record.

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

1. reinstate Claimant's SER application for energy services which corresponds to the SER denial date of 4/18/11; and
2. DHS shall evaluate the amount to resolve the emergency in the context of the ten days following the application date and shall disregard any subsequent payments by Claimant when determining the amount to reesolve the emergency.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 4, 2011

Date Mailed: October 4, 2011

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

CG/hw

cc:

