

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201153027
Issue No: 5016
Case No: [REDACTED]
Hearing Date: October 19, 2011
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon a request for a hearing received from Claimant on August 26, 2011. After due notice, a telephone hearing was held on October 19, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly denied Claimant's application 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 July 15, 2011, Claimant submitted to the department a SER application (DHS 1514), requesting assistance in paying her heat and electricity costs. (Department Exhibits 1-1 through 1-6)
2. On August 10, 2011, the department mailed Claimant a State Emergency Relief Decision Notice, advising her that her request for assistance in the amount of [REDACTED] was denied for the reason that her emergency had been resolved. (Department Exhibits 1-9 through 1-11)
3. On August 19, 2011, Claimant submitted a hearing request protesting the denial of her SER application. (Request for a Hearing)
4. On September 1, 2011, the department received written confirmation from Consumers Energy that Claimant was enrolled in a Shutoff Protection Plan. (Department Exhibits 1-7, 1-8)

CONCLUSIONS OF LAW

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

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The State Emergency Relief (SER) program was 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 (ERM).

The department's standard of promptness mandates that an application for SER assistance must be processed by the department within 10 calendar days of the date the signed application is received in the local DHS office. ERM 103. (Emphasis in original). Moreover, *the department must maintain a case record that includes documentation for any delay in processing the application beyond the standard of promptness.* ERM 103. (Emphasis added). Clients must be informed of all verifications that are required and where to return verifications. The due date is eight calendar days beginning with the date of applications. If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. This does not change the standard of promptness date. ERM 103.

Low-income households who meet eligibility requirements 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 applied for SER assistance on July 15, 2011 and the department processed her application 26 calendar days later, issuing a decision notice on August 10, 2011 denying Claimant's request on the basis that the emergency had been resolved. At the hearing, Claimant testified that because the department failed to process her application within the required 10-day timeframe, she was forced to contact Consumers Energy and request participation in Consumer Energy's Shutoff Protection Plan.

The department's representative acknowledged that the department did not timely process Claimant's SER application and did not maintain a case record that included any documentation of the department's delay, contrary to ERM 103. The department's representative further acknowledged that, had the department timely processed Claimant's SER application, it is likely that Claimant *would have been approved* at the time of her application for SER assistance with her heat and electricity expenses, conditioned on Claimant's ability to pay any calculated co-payment. In short, it appears that, but for the department's clear failure to comply with its own standard of promptness, and assuming that Claimant was otherwise deemed eligible for SER assistance, she would not have been forced to resolve her emergency by other means – specifically, by seeking assistance from Consumers Energy.

This Administrative Law Judge finds, based on the material and substantial evidence presented during the hearing, the department improperly determined Claimant's eligibility for SER assistance for her heat and electricity expenses.

DECISION AND ORDER

Accordingly, the department's actions are **REVERSED**. The department shall reprocess Claimant's July 15, 2011 SER application and retroactively redetermine Claimant's eligibility for SER assistance for her heat and electricity expenses at the time of her original application in accordance with the applicable department policy and award Claimant such SER assistance if she is otherwise entitled to it.

It is SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 20, 2011

Date Mailed: October 21, 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.

SDS/cr

cc:

