

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

IN THE MATTER OF:



Reg. No: 2012-33776  
Issue No: 5016  
Case No: [REDACTED]  
Hearing Date:  
April 4, 2012  
Eaton 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 February 9, 2012. After due notice, a telephone hearing was held on April 4, 2012. Claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny Claimant's State Emergency Relief (SER) application because she had another provider repair her furnace without prior approval?

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) assistance on February 2, 2012, to repair her furnace. (Department Exhibits 3-8).
2. The department mailed Claimant the SER decision notice on February 6, 2012, indicating her SER request had been denied because her emergency had already been resolved. (Department Exhibits 11-12).
3. The department received Claimant's request for a hearing on February 9, 2012, protesting the denial of assistance in paying the furnace repairs. (Hearing Summary).

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. Mich Admin Code, Rule 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. Mich Admin Code, Rule 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. 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 that 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 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.

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.

In this case, Claimant requested assistance on Friday, February 2, 2012, in repairing her furnace. The department contacted a provider the same day who estimated the repair of the furnace would cost \$869. The provider recommended splitting the system into 2 zones which would involve repiping the system. The department attempted to recontact the provider on Friday, February 2, 2012, to ask for clarification regarding his note about repiping the system. Specifically, the department wanted to know if the repiping would be a permanent fix or a temporary fix. The department was unable to reach the provider before end of business.

On Monday, February 5, 2012, Claimant notified the department that she had found another provider who had repaired her furnace over the weekend and she would be forwarding the department the bill. The department informed Claimant that they could not authorize assistance for a service that was already completed. On February 6, 2012, the department mailed Claimant a State Emergency Relief Decision Notice informing her that her request for furnace repair was denied because her emergency had already been resolved.

Claimant testified that she lives on disability and has two daughters and could not go the weekend without heat. Claimant stated that she did not know that she would be denied assistance if she got another provider to repair the furnace over the weekend for her family.

Policy indicates that immediate action may be necessary to prevent harm to SER group members when an emergency arises after hours or on weekends. ERM 103. During the hearing, the department admitted that the Claimant's inoperable furnace qualified as an emergency. Policy also indicates that the prior approval requirement may be waived in any case when the emergency occurred while department offices were closed. ERM 103. The department admitted that the department offices were closed on the weekend. Therefore, because this was an emergency concerning Claimant and her family being without heat when the department offices were closed, the prior approval requirement may be waived. As a result, the Administrative Law Judge finds the department improperly denied Claimant's SER request.

#### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did not act in accordance with policy in determining Claimant's SER eligibility. The department's SER eligibility determination is REVERSED. The department shall waive the prior approval requirement and process Claimant's SER application back to the original application date of February 2, 2012, in accordance with policy.

It is SO ORDERED.

/s/

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

Date Signed: April 9, 2012

Date Mailed: April 9, 2012

**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/ds

cc:

