

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-48450
Issue No.: 5016
Case No.: [REDACTED]
Hearing Date: July 5, 2012
County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 in-person hearing was held on July 5, 2012, from Pontiac, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

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 January 17, 2012, and March 29, 2012, Claimant applied for SER assistance with energy or utility service.
2. On February 16, 2012, and March 30, 2012, the Department sent notice of the application denial to Claimant.
3. On April 20, 2012, 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, policy requires that energy services, such as that applied for by Claimant, be in "threat of shut off, or is already shut off" in order to be eligible for SER payment.

Claimant's January 17 application was denied because there was no longer an emergency. Claimant admitted at hearing that she paid the amount needed to avoid a shut off out of funds reserved for paying property taxes. The Administrative Law Judge holds that the Department was correct to deny the application. Policy makes no differentiation as to where funds must come from, or whether those funds were earmarked for a different purpose. Claimant was able to pay her energy bill and, therefore, the reason for the SER request no longer existed. If Claimant subsequently is in danger of eviction because of failure to pay property taxes, Claimant may be eligible for SER for that reason, at that later date. However, the Department cannot pay for energy services when there is no danger of shut off, as proscribed by policy.

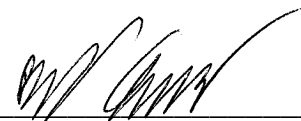
Claimant's March 29 application was denied for a similar reason. Per a collateral contact with the energy company, it was determined that Claimant had a tank that was 60% full and was in no danger of shut off at that time. Claimant confirmed this fact. Therefore, as there was no danger of shut-off, the Administrative Law Judge holds that the Department was correct to deny this application as well.

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.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 12, 2012

Date Mailed: July 12, 2012

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

RJC/pf

cc:

