

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201215512
Issue No.: 5016, 5017, 5025
Case No.: [REDACTED]
Hearing Date: April 4, 2012
County: Wayne DHS (49)

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 April 4, 2012, from Detroit, Michigan. Participants on behalf of Claimant included the above named Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Specialist, and [REDACTED], Manager.

ISSUES

The first issue is whether DHS properly failed to consider Claimant's request for State Emergency Relief (SER) for assistance with property taxes, home repairs, furnace repair or a water bill arrearage.

The second issue is whether DHS properly processed Claimant's request for State Emergency Relief (SER) for assistance with energy services.

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 10/26/11, Claimant applied for SER assistance (see Exhibits 1-3) seeking assistance with: lights/heat, water, property taxes, furnace repair and multiple household repairs including: doors, windows, plumbing and several other repairs.
2. DHS failed to issue Claimant an SER decision concerning the SER requests of water, taxes, furnace repair and all household repairs.

3. As of the date Claimant submitted the SER application, Claimant owed approximately \$5371.08 to DTE for a heat bill arrearage and \$2280.55 for an electric bill arrearage.
4. On 10/27/11, DHS approved Claimant (see Exhibit 4) for a \$450 payment toward a heat bill subject to a \$4921.08 copayment by Claimant and a \$450 payment toward an electric bill subject to an \$1830.55 copayment.
5. Claimant failed to pay either copayment by the 11/24/11 deadline.
6. On 11/7/11, Claimant submitted a hearing request to DHS concerning each of the requested SER items.

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).

SER applications must be registered within one day of receipt. ERM 103 at 2. Requests for SER become an application on the day the signed DHS-1514 is received in a local office. *Id.*

Claimant's SER application unequivocally requested assistance with: home repairs, a water bill arrearage, a furnace repair and property tax arrearage. The SER Decision Notice (Exhibit 4) only addressed a light/heat bill balance. DHS provided no proof that any of Claimant's other listed SER issues were registered or considered by DHS. DHS attempted to contend that the issues were considered, but denied due to a failure by Claimant to submit allegedly required verifications.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 at 4. The due date is eight calendar days beginning with the date of application. *Id.* DHS is to use the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications.

DHS conceded that no Verification Checklist was sent to Claimant. DHS attempted to blame Claimant for failing to submit verifications with her SER application. DHS regulations do not require clients to submit verifications with the SER application. It is found that DHS erred in failing to make any official requests for verifications and/or failing to register Claimant's SER application for the services of: property taxes, water bill arrearage, furnace repair and home repairs.

As noted above, DHS issued a decision on Claimant's SER request for energy assistance. DHS approved Claimant for \$450 each for a heat and electric bill but subject to a large copayment to be made by Claimant within 30 days of her application.

Claimant did not make the copayment, so DHS did not make any SER payment. In making the decision, DHS determined that the amount to stop the shut-off was Claimant's entire energy bill arrearage.

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. ERM 301 at 1. 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 calendar days. *Id.*

DHS conceded that Claimant's energy service provider, DTE, typically agrees to accept any SER payment to stop a shut-off for 30 days. DHS contended that DTE would not accept a partial payment in this case due to a large balance by Claimant. DHS contended that an email from DTE to DHS could verify the claim. DHS was unable to present the email to verify their contention. Without DHS proof that Claimant's case was an exception to the general rule, the general rule will be followed. It is found that DHS should have considered the amount that Claimant had left on her SER maximum limits to stop the shut-off.

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 improperly denied Claimant's SER application for assistance with energy services, property taxes, home repairs, furnace repair and a water bill arrearage.

DECISION AND ORDER

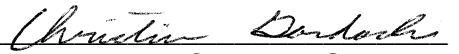
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for reasons stated on the record, finds that the Department did act properly. did not act properly.

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. register Claimant's SER application dated 10/26/11 for the following programs: energy services, furnace repair, home repairs, water bill arrearage and property taxes;
2. process Claimant's SER application for energy services subject to the finding that the amount to stop the shut-off is the amount Claimant has left on her annual SER fiscal cap; and

3. process Claimant's remaining SER requests in compliance with DHS regulations including requesting any needed verifications via Verification Checklist.


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

Date Signed: April 6, 2012

Date Mailed: April 6, 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. (60 days for FAP cases).

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 to:

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

