

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201226336
Issue No.: 5032
Case No.: [REDACTED]
Hearing Date: March 7, 2012
County: Schoolcraft County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 March 7, 2012, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 21, 2011, the Claimant's Power of Attorney (POA) [REDACTED], purchased and had installed a new furnace for the Claimant.
2. On November 22, 2011, [REDACTED], applied for SER assistance on behalf of the Claimant. Specifically, [REDACTED] requested SER for a new furnace.
3. On November 22, 2011, the Department denied the Claimant's SER application because the emergency had been resolved prior to application.
4. On November 22, 2011, the Department sent notice of the application denial to the Claimant.
5. On December 9, 2011, the Department received Claimant's hearing request, protesting the SER denial.

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. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

The 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).

Any person has the right to apply for SER. Authorized representatives may apply on behalf of a person who is deceased, physically or mentally disabled, or a minor. **Obtain written permission from all other applicants designating an authorized representative outside the SER group. (ERM 103).**

Requests for SER become an application on the day the signed DHS-1514 is received in a local office. For electronic applications submitted through MIBridges, the application date is determined based on the time and date of submission. Any application submitted after 5:00 pm or on a non-business day will have an application date of the next business day. (ERM 103).

Certain conditions must be met before SER can be issued to help individuals and families whose health and safety are threatened:

- Prior written or oral approval must be given by an authorized department staff person before SER issuance.
- **Do not issue SER to reimburse expenses incurred or paid without prior department approval.**
- **The SER payment must resolve the emergency.**
- The group must meet all applicable policy requirements for the SER service.

Immediate action may be necessary to prevent harm to SER group members when an emergency arises after hours or on weekends. The prior approval requirement may be waived in any case when the emergency occurred while department offices were closed. The first-line manager may approve a waiver of the prior approval requirement in non-burial cases, provided an SER application is filed within five business days from the date the emergency began. (ERM 103).

The Low Income Home Energy Assistance Program (LIHEAP) is the funding source for energy-related repairs. Repair or replacement of a non-functioning furnace is currently the only allowable energy-related home repair. The lifetime maximum for energy-related home repairs is \$4,000. All energy-related repairs approved since 1/1/1978 count toward this maximum, including previously authorized repairs covered as energy-related home repairs. View *Benefit Issuance/SER Adjustments/View SER Cap* to verify the cumulative total of energy related home repairs. (ERM 304).

In this case, the emergency did not occur during non business hours and there was no power of attorney or designated representative on file when [REDACTED] first talked to the Department on November 21, 2011. Therefore, the Department acted accordingly in acknowledging the application when it was received on November 22, 2011. Since the application was received after the emergency was resolved, the Department therefore acted in accordance with the applicable laws and policies in denying the Claimant's application for SER.

I find it worth noting, that the Department has the authority to waive the approval, however I do not find any abuse in the Department's discretion to deny the Claimant's SER application in this case.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly denied the Claimant's SER application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly.

Accordingly, the Department's decision is **AFFIRMED**.

/s/ _____
Corey A. Arendt
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: March 8, 2012

Date Mailed: March 9, 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

CAA/cr

cc:

