

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2012-53525
Issue Nos.: 5016, 5017
Case No.: ██████████
Hearing Date: March 20, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

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 20, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

On May 14, 2013, the case was reassigned to Administrative Law Judge Jan Leventer for preparation of the decision and order.

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with home repairs and energy service?

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 April 8, 2012, Claimant applied for SER assistance with home repairs and energy service.
2. On April 18, 2012 (energy) and May 8, 2012 (home repairs), the Department sent notices of the application denials to Claimant.
3. On May 3, 2012 (energy) and May 15, 2012 (home repairs), Claimant filed hearing requests, protesting the SER denials.

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, based on further legal research and review of the documents and testimony in this case, notwithstanding the decisions announced on the record, it is necessary to retract the decisions made on the record and to substitute those stated herein.

First, with regard to energy services, ERM 301, "Energy Services," states there must be a threat of shutoff in order for the Department to provide emergency assistance. Department of Human Services Emergency Relief Manual (ERM) 302 (2011), p. 1. Having examined all of the evidence and testimony in this case as a whole, it is found and determined that there is no shutoff notice or threat of shutoff in this case.

The DTE Energy Notice has received careful consideration in this decision. Claimant applied for SER on April 8, 2012, but she did not provide her current statement at that time. Claimant's DTE Energy statement of April 18, 2012, was later provided to the Department on May 15, 2012. It states that as of March 22, 2012 she was in arrears of \$537.63 and her current bill was \$116.30. It requests that she pay \$355.90 by May 2, 2012, "in order to avoid SHUTOFF."

It is found and determined that a request for payment in order to avoid a shutoff is not the same as a shutoff notice stating the date that the shutoff will occur. This bill merely announces that a shutoff may occur at some time in the future if payment is not made. It is found and determined that this statement cannot be the basis for emergency relief for energy services. The Department acted correctly in this case in denying SER benefits for energy services. While the SER Decision Notice may not have contained this reason, it is found that that is not sufficient error to cause the factfinder to reverse a correctly made decision.

Next, with regard to home repairs, the applicable policy is ERM 207, "Home Ownership." This policy states that SER must be denied if there is a property tax arrearage, unless the client presents a workable plan for paying the arrearage. Department of Human Services Emergency Relief Manual (ERM) 304 (2010), p. 3.

Accordingly, having reviewed the Quit Claim Deed of April 14, 1997, and the Property and Tax Information statement of February 18, 2013, and all of the evidence in this case as a whole, it must be found and determined that Claimant was in arrears since 2009, and the arrearage increased from \$2,268.12 in 2009 to \$7,426.20 by February 18, 2013. It is found and determined therefore the Claimant did not have a workable arrearage plan in place on April 8, 2012, when she applied for SER benefits.

Again, while the Department did not state this reason for denial in the SER Decision Notice, that is not a sufficient reason to overturn a decision that is legally correct.

Based on the above evaluation, it is found and determined that the Department acted correctly in denying Claimant SER benefits for home repairs. The Department is affirmed.

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 home repairs.

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.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 5, 2013

Date Mailed: June 5, 2013

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 affect the substantial rights of the claimant:
 - 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

JL/cl

cc:

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