

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201330041
Issue No.: 5100
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Wayne DHS (31)

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 June 6, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS processed Claimant's State Emergency Relief (SER) application requesting assistance with a shut-off to energy service.

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 2/12/13, Claimant applied for SER for help with an energy bill.
2. On 2/13/13, Claimant requested a hearing disputing the alleged failure by DHS to process an "SER paper" after Claimant had appeared "six times".
3. On 3/7/13, DHS issued an SER Decision Notice finding that Claimant was eligible for payment of \$53 towards an electricity bill, subject to a copayment totaling \$461.05.

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 final administrative

rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. DHS (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

Claimant's hearing request noted a dispute concerning SER for energy assistance. The precise nature of Claimant's dispute was not clear. Claimant alleged that she was denied SER eligibility up to "six times" but had still not received any help in restoring energy service to her residence.

Based on the narrative from Claimant's Request for Hearing, it was debatable whether Claimant requested a hearing to dispute a failure by DHS to process her application/applications or a failure by DHS to make payments for Claimant's energy service account. It is known that Claimant chose to request a hearing using a "generic" Request for Hearing form. "Generic" referring to the fact that the form is not tied to a specific DHS case action notice. Claimant also initially testified that she had not received any previous SER decisions. Based on the presented evidence, it is found that Claimant requested a hearing due to the failure by DHS to process previously submitted SER applications.

Claimant testified that she applied for SER in 12/2012, 1/2013 and 2/2013 but never received an SER decision. DHS obtained documentation which verified receipt of an SER application from 1/3/13, 2/12/13 but not 12/2012. DHS documentation noted that Claimant's application from 1/2013 was denied. The fact that DHS had a record of denial of Claimant's application from 1/2012 was supportive in finding that a decision was made on that application and presumably mailed to Claimant.


During the hearing, DHS obtained a copy of an SER Decision Notice dated 3/7/13 related to Claimant's application dated 2/12/13. Claimant examined the notice. After examining the SER Decision Notice, Claimant conceded that she received the notice but did not appreciate the notice as a decision on her SER application. Claimant's concession made it more likely that Claimant may have overlooked one or more previous SER decisions sent by DHS. It was also supportive in finding that Claimant may have misremembered applying for SER in 12/2012.

Based on the presented evidence, it is found that Claimant did not apply for SER in 12/2012. It is further found that DHS issued SER decisions to Claimant concerning her SER applications from 1/3/13 and 2/12/13. Claimant is entitled to request a hearing to dispute the content of previous SER decisions though she may be barred from getting an administrative hearing due to the lack of timeliness. Claimant's best remedy is to reapply for SER as soon as possible.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly did not process a non-existent SER application from

12/2012. It is further found that DHS issued SER decisions for Claimant's applications dated 1/3/13 and 2/12/13. The actions taken by DHS are AFFIRMED.


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

Date Signed: 6/25/2013

Date Mailed: 6/25/2013

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

CG/hw

cc:

