

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

**IN THE MATTER OF:**



Reg. No.: 20137445  
Issue No.: 5017  
Case No.: [REDACTED]  
Hearing Date: February 28, 2013  
County: Genesee 06

**ADMINISTRATIVE LAW JUDGE:** C. Adam Purnell

**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 February 28, 2012 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Specialist).

**ISSUE**

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

**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 September 7, 2012, Claimant applied for SER assistance with shelter emergency.
2. On September 17, 2012, the Department sent notice of the application denial to Claimant.
3. On September 24, 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, 1993 AACRS R 400.7001-400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. ERM 304. SER also assists with home repairs to correct unsafe conditions and restore essential services. ERM 304.

The following services are covered by this item: (1) home ownership services such as house payments (mortgage, land contract payment or mobile home sales contract), including principal and interest, legal fees and escrow accounts for taxes and insurance; property taxes and fees; mobile home lot rent for owners or purchasers of mobile homes; house insurance premiums that are required pursuant to the terms of a mortgage or land contract; (2) **energy-related home repairs**; (3) **non-energy-related home repairs**. ERM 304.

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

Non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement. ERM 304. Examples include: (1) repairs to the basic structure; (2) hot water heater; (3) septic/waste disposal system; (4) doors/windows; (5) extermination services; (6) electrical; (7) plumbing; (8) roofs; (9) wells/water supply system; (10) wheelchair ramps. ERM 304.

Authorization for payment is only made if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. ERM 304. The repair(s) must restore the home to a safe, livable condition. ERM 304.

### **SER does not pay for improvements or nonessential repairs. ERM 304.**

The Department will issue home repair payments only if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. ERM 304. The repair(s) must restore the home to a safe, livable condition. ERM 304.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of*

*Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

Here, Claimant submitted an SER application seeking assistance with the following: past due water bill, water connection fee, riser (plumbing fitting) repair, check and waste repair and transponder. The Department submits that these water meter parts were “missing” and not included as part of the property at the time of purchase. First, the Department contends that Claimant’s property, which was purchased from the Michigan Land Bank, included a land contract which indicated the property was to be purchased “as-is.” To allow Claimant to add these parts to her home would constitute an improvement to her home. The Department also argues that the property taxes were not current, which is a condition of eligibility.

This Administrative Law Judge agrees with the Department’s assessment that the items listed by the City of Flint riser (plumbing fitting) repair, check and waste repair and transponder were all missing parts to a water meter and not covered. In addition, the Administrative Law Judge believes that Claimant told the Department that these items were missing during a telephone conversation on October 23, 2012. The record contained a documentation regarding this phone call. Claimant’s contention that this note is inaccurate is not persuasive. In addition, the record shows that Claimant’s property taxes were delinquent at the time. There was no documentation in the record to show otherwise.

Additionally, there is no evidence that the home ownership services for repairs requested here were to avert an emergency in the home. Rather, Claimant sought SER for items not included with the water meter on her dwelling.

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 Claimant’s SER application for assistance with home repairs.

**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**.

IT IS SO ORDERED.

/s/ \_\_\_\_\_  
C. Adam Purnell  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: March 4, 2013

Date Mailed: March 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 mailing 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

20137445/CAP

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

CAP/cr

cc:

