

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201343986
Issue No.: 5100
Case No.: [REDACTED]
Hearing Date: June 26, 2013
County: Wayne DHS (43)

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 26, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Supervisor, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for State Emergency Relief (SER) for a lack of emergency.

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 4/10/13, Claimant applied for SER seeking assistance for utilities.
2. At the time of application, Claimant received ongoing energy services, but with a non-household member's name assigned to the energy account.
3. At the time of application, the energy account in Claimant's name was closed and in collection status.
4. On 4/16/13, DHS denied Claimant's SER eligibility for lacking an emergency.
5. On 4/23/13, Claimant requested a hearing to dispute 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 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).

The present case involves a dispute over an SER application requesting energy assistance. It was not disputed that the basis of denial was due to an alleged failure by Claimant to have an emergency.

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 (2/2013), p. 1. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. *Id.* DHS is to verify actual or threatened shutoff or the need for reconnection of natural gas or electricity, by contacting the energy company. *Id.*, p. 9.

The above-cited DHS policy is applicable for traditional threatened energy service shut-offs. Claimant alleged untraditional circumstances.

It was not disputed that Claimant's energy service was in a non-household member's name. This is known to be a popular way to maintain energy service after persons accrue a substantial account balance and are unable to afford ongoing energy services in their own name. Claimant testified that she sought SER payments on a closed account in her name. Claimant testified that she needed to change the energy service into her name because the person whose name was attached to the energy service would no longer allow Claimant to have service in that person's name.

It is debatable whether Claimant's presented testimony amount to a threat to Claimant's energy service. Claimant presented a plausible scenario where the continuation of energy service rested on some unspecified payment amount; this is indicative that an emergency was established. On the other hand, over two months passed since Claimant alleged a shut-off threat and Claimant still has energy service in the non-household member's name; this is not very indicative of a shut-off threat. For purposes of this decision, whether an emergency existed need not be decided; it only needs to be decided whether it was Claimant's obligation to specifically explain the emergency or DHS' obligation to request verification of the emergency.

DHS conceded awareness that Claimant sought SER payment towards her closed account, DHS did not understand why. It is notable that the SER application does not have any questions which would allow a client to explain details of a potential shut-off. If an SER application does not inquire about shut-off details, it would be unfair to expect a client to report the details. Based on the presented evidence, it is found that DHS should have sought verification of Claimant's emergency (e.g. a letter from the non-

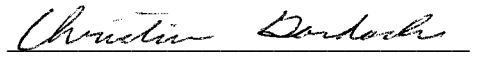
household member stating that the energy service at Claimant's residence would end) prior to a denial. Accordingly, the SER denial is found to be improper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's SER application for energy services. It is ordered that DHS:

- (1) re-register Claimant's SER application dated 4/10/13;
- (2) initiate SER application processing subject to the finding that DHS had an obligation to request verification of Claimant's emergency prior to denial.

The actions taken by DHS are REVERSED.


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

Date Signed: 7/5/2013

Date Mailed: 7/5/2013

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. (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.

201343986/CG

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:

