

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 201316149  
Issue No.: 5032, 5006  
Case No.: [REDACTED]  
Hearing Date: May 1, 2013  
County: Wayne DHS (49)

**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 May 1, 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 properly denied Claimant's State Emergency Relief (SER) application for energy services.

**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 10/26/12, Claimant submitted an SER application requesting assistance with a heat bill.
2. DHS verified that Claimant's heat service was shut-off (see Exhibit 1).
3. On 11/2/12, DHS determined that Claimant's income, assets and/or shortfall exceeded the amount needed to resolve Claimant's emergency.
4. DHS also claimed that the SER application denial was based on Claimant's failure to establish an emergency.
5. On 11/21/12, Claimant requested a hearing to dispute the DHS 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, 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Prior to a substantive analysis, it should be noted that Claimant's hearing request listed that he had an authorized hearing representative (AHR). The AHR did not appear for the hearing and the hearing proceeded with Claimant representing himself.

Claimant requested a hearing to dispute a denial of an SER application. DHS testified that the denial, in part, was based on Claimant's failure to allege 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 (10/2012), p. 1. DHS is to verify actual or threatened shutoff or the need for reconnection of natural gas or electricity, by contacting the energy company.

Claimant testified that he needed to have electric and heat service placed in his name. It was established that Claimant's gas service was shut-off (see Exhibit 1). Having service shut-off is sufficient verification of an emergency. It is found that DHS had no basis to deny Claimant's SER application on the basis that there was no emergency.

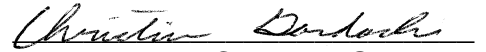
The official reason for denial (i.e. the reason listed on the denial notice) was that Claimant's income copayment, asset copayment and/or shortfall exceeded the amount needed to resolve the emergency (see Exhibits 2-3). DHS failed to present an SER budget in support of the denial. Thus, it cannot be determined what amount DHS considered to prevent shut-off or what amounts DHS determined as Claimant's copayments and/or shortfalls. DHS could not even present Claimant's original SER application so that a new decision could be made. The total absence of evidence to support the denial appropriately results in reversal of the denial.

### **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 application for SER. It is ordered that DHS:

- (1) re-register Claimant's SER application dated 10/26/12;
- (2) process Claimant's application subject to the findings that Claimant's income, assets and shortfall are not a basis for denying the application and that Claimant had a sufficient basis for emergency; and
- (3) supplement Claimant for any SER benefits improperly not issued.

The actions taken by DHS are REVERSED.

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

Date Signed: 5/16/2013

Date Mailed: 5/16/2013

**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:

