

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-45292
Issue No.: 5016
Case No.: [REDACTED]
Hearing Date: July 3, 2013
County: Wayne (82-57)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 July 3, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department properly deny Claimant's March 26, 2013, application for State Emergency Relief (SER) assistance with energy services and fail to process Claimant's April 11, 2013, SER application for energy services?

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 March 26, 2013, and April 11, 2013, Claimant applied for SER assistance with energy or utility service.
2. On an unknown date, the Department denied the March 26, 2013, SER application, finding that Claimant did not have an emergency.
3. The Department did not process Claimant's April 11, 2013, SER application.
4. On April 30, 2013, the Department received Claimant's hearing request, protesting the Department's failure to process her April 11, 2103, SER application.

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, in her April 30, 2013, hearing request, Claimant requested a hearing concerning the Department's failure to process an April 11, 2013, SER application for assistance with outstanding gas and electric bills. Claimant also referenced that she was filing another SER application concerning the same issue on April 30, 2013. Because the Department had not addressed Claimant's April 30, 2013, SER application at the time of her hearing request, Claimant was not an aggrieved party at the time she filed her hearing request with respect to any action taken on the April 30, 2013, application. See Mich Admin Code R 400.903(1). Accordingly, Claimant was advised that the Department's action concerning her April 30, 2013, application would not be addressed at the hearing, but she could request a hearing if she was concerned about the Department's action concerning that application.

The Department testified that Claimant's March 26, 2013, SER application was denied because her services were not in shutoff status. The Department may authorize payment to a client's heat or electric service provider in a minimum amount necessary to prevent shutoff or restore service, up to the fiscal year cap, when the client's heat or electric service for their current residence is in threat of shutoff or is already shut off and must be restored. ERM 301 (February 1, 2013), p. 1. A copy of the DTE bill included with the March 26, 2013, SER application did not show that Claimant's services were in shutoff status. Thus, the Department acted in accordance with Department policy when it denied the March 26, 2013, SER application.

At the hearing, Claimant testified that she also submitted an April 11, 2013, SER application seeking assistance with overdue heat and electrical bills, but the Department had failed to process this application. At the hearing, Claimant provided a copy of her application, including a DTE bill showing that she had an outstanding balance of \$624.68 and that \$319.31 was due before April 22, 2013, to avoid shutoff. Claimant's documentation supported her position that she filed an SER application on April 11, 2013. Although the Department denied receiving the application, it contended that, even if it had received and processed the application, the application would have been denied because there was no actual shutoff at the time the application was filed.

The Department must process a SER application in 10 calendar days, beginning the date the signed SER application is received in the local office. ERM 103 (March 2013), p. 6. In processing an application for heat or electric services, the Department must verify actual or threatened shutoff or the need for reconnection of natural gas or electricity by contacting the energy company. ERM 301, p. 9. The Department may use DTE's online resource for agencies (ORA) to verify the shutoff or restore service

amount in lieu of an actual bill. ERM 301, p. 12. Current bills that are not subject to shutoff are not included in the amount needed. ERM 301, p. 1.

The shutoff notice Claimant included with her SER application showed that as of April 8, 2013, \$624.68, which included the \$319.31 due necessary to avoid shutoff, was the balance due to DTE. At the hearing, the Department provided documentation from the OAR site showing that, on April 9, 2013, \$320 was applied to Claimant's DTE bill. Claimant verified that a credit available to her sister was applied to the DTE bill. The \$320 payment made on April 9, 2013, paid off the amount necessary to avoid shutoff. As such, Claimant failed to establish that she was in shutoff status at the time of her April 11, 2013, application. Therefore, although the Department did not timely process Claimant's SER application, the error is harmless in light of the fact that the application would properly be denied under the facts presented.

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 acted in accordance with Department policy when it denied Claimant's March 26, 2013, SER application and that the Department's failure to timely process Claimant's April 11, 2013, SER application was harmless because Claimant failed to establish that her services were in shutoff status.

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 9, 2013

Date Mailed: July 10, 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 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

ACE/pf

cc:

