

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

IN THE MATTER OF:



Reg. No.: 2014-29050
Issue No.: 5001
Case No.: [REDACTED]
Hearing Date: May 28, 2014
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in-person hearing was held on May 28, 2014, from Warren, Michigan. Participants included the above-named Claimant, [REDACTED], Claimant's roommate, testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED], Hearings Facilitator.

ISSUES

The issue is whether DHS properly denied Claimant's request for State Emergency Relief (SER) for the reason that Claimant did not have an 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 [REDACTED], Claimant applied for SER seeking payment of an energy bill arrearage.
2. Claimant's energy bill had a running balance, but was not in "past-due" status.
3. On [REDACTED], DHS mailed Claimant a SER Decision notice (Exhibits 3-4) denying Claimant's application due to Claimant not having an emergency.

4. On [REDACTED], Claimant requested a hearing to dispute the denial of SER.

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. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

Prior to a substantive analysis of Claimant's hearing request, it should be noted that Claimant that he required special arrangements to participate in the administrative hearing. Claimant testified that his eyesight is poor and that he requires extra time and/or assistance when reading. Claimant brought his roommate to the hearing; Claimant's roommate assisted Claimant with reading. Claimant also was advised that he could take as much time as he needed to read any relevant documents. Claimant stated that he was satisfied with the accommodations.

Claimant requested a hearing to dispute a denial of SER concerning an energy bill. It was not disputed that DHS denied Claimant's application for the reason that Claimant's energy bill balance did not qualify as an emergency.

When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301 (10/2013), p. 1. The amount of the payment is the minimum necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. *Id.*

Claimant presented a copy of his energy bill (Exhibit A1). Claimant's bill reflected a balance of \$536.09, as of [REDACTED]. Claimant's bill did not note any shut-off threat or that it was in past-due status. Claimant credibly testified that his balance gradually increased over several months. Claimant contended that his increasing energy bill balance was definitive proof that his energy account was in past-due status, and therefore, eligible for SER payment.

Claimant considered his bill to be past-due; Claimant's consideration is irrelevant. Claimant's energy provider has the power to terminate Claimant's energy services; thus, whether the energy provider considers Claimant's to be past-due dictates whether Claimant's bill was past-due.

Claimant testified that an energy provider representative advised Claimant to apply for SER. Claimant contended that the advice constituted evidence of a past-due bill.

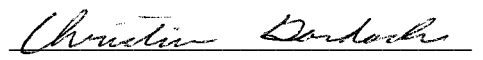
DHS presented documents (Exhibits 1-2) concerning Claimant's energy account. DHS obtained the information on [REDACTED], a few days after Claimant applied for SER. DHS presented testimony that the documents were obtained from a data exchange with

Claimant's energy service provider. A "current" bill amount of \$543.18 was noted. Claimant's noted "past due" amount was \$0.

The DHS documentation, obtained directly from Claimant's energy service provider, was compelling and unequivocal proof that Claimant's bill was not "past-due". Accordingly, Claimant did not have an emergency at the time of his SER application. It is found that DHS properly denied Claimant's SER application. This finding does not prevent Claimant from reapplying for SER if his energy bill becomes past-due, as defined by his energy provider, or in threat of shut-off.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's SER application dated [REDACTED]. The actions taken by DHS are **AFFIRMED**.


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

Date Signed: 6/6/2014

Date Mailed: 6/6/2014

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

2014-29050/CG

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

CG/hw

cc:

