

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

IN THE MATTER OF:



Reg. No.: 14-009827
Issue No.: 5001
Case No.: [REDACTED]
Hearing Date: October 28, 2014
County: Wayne (23) Pathways to Potential

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 three-way telephone hearing was held on October 28, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Family Independence Specialist [REDACTED].

ISSUE

Did the Department properly process Claimant's request for State Emergency Relief (SER) assistance with utility/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 May 2, 2014, Claimant applied for SER assistance with utility/energy services.
2. On May 2, 2014, the Department sent Claimant the SER Decision Notice, requiring her to pay [REDACTED] for non-heat electricity, and [REDACTED] for heat.
3. On May 7, 2014, DTE put Claimant on a shut-off protection plan requiring her to pay [REDACTED] per month to avoid having her utility shut off.
4. Claimant did not fulfill her co-pay obligation or her monthly commitment to DTE, and the Department would not make the funds available as of May 31, 2014.
5. Claimant submitted another application during the non-crisis season of June 1, 2014 through October 31, 2014, and that application was denied on July 28, 2014.
6. On August 13, 2014, Claimant filed a hearing request, protesting the SER decision.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049. Department policies are found in the Department of Human Services State Emergency Relief Manual (ERM).

Department policy concerning SER for energy services is found in ERM 301 (10/1/13), p. 1.

“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. The amount of the payment is the minimum necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. Current bills that are not subject to shutoff should not be included in the amount needed.”

More direction is found at page 5:

To be eligible for energy service assistance, an SER group must make required payments toward their energy service. The required payment amounts are based on the group size and service (heat or electric); see the Table of Monthly Energy Required Payments in this item.

The energy required payment period is the six-month period prior to the month the SER group applies for assistance, regardless of previous approvals. It applies even if the client has never requested or received SER energy services in the past six-months. For example, if the group applies for heating assistance on January 13, the required payment period is July through December.

Energy required payments are met if the amounts paid by the group for heating fuel and/or electricity equal or exceed the table amounts for the required payment period.

Required payments must be met for each month the SER group has an obligation to pay for the service. Failure to make required payments may result in a shortfall.

At page 4 of ERM 301, the policy states: “Verification that the client has paid any shortfall and/or client contribution must be obtained prior to the DHS payment being issued. If the client has entered into a payment agreement with the energy provider, an electronic verification from the provider, or the provider’s secured website, indicating

that the client has entered into a payment agreement, is acceptable verification that the client copy has been met. A copy must be placed in the case record.”

Claimant had entered into a payment agreement, but she did not keep that agreement.

ERM 302 (10/1/13) addresses utility services. At page 1 we find:

The following are covered utility services:

- Payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. The payment must restore or continue service for at least 30 days at the current residence. However, payments for current charges are not allowed.
- A deposit (including membership fees and lease/rental payments for an on-site storage tank) required by the utility provider to begin, maintain, or restore one of the following services currently or previously the responsibility of the SER group: water, sewer and cooking fuel.
- Fees for connection, reconnection, or hookup of utility services.

The bill does not have to be in the client’s name but it must be connected to the group’s current address. If the bill, including old or transferred balances, must be paid to start or maintain service at the current or new address, payment may be authorized up to the fiscal year cap as long as the payment resolves the emergency.

More direction is found at page 2:

The SER group has to pay the minimum monthly amounts for water, sewer and/or cooking gas for the last six months. See the Payment Limits chart below. The required payment period is always the six-month period prior to the month the SER group applies. If required payments of the requested service were not met, determine if good cause for non-payment exists. Unmet required payments are also referred to as a shortfall. See ERM 204, Client Caused Emergencies and ERM 103, Application Procedures.

SER cannot be used to make required payments.

Shortfall payments cannot be waived.

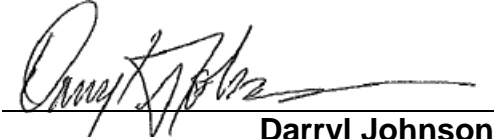
When Claimant applied in July, 2014, ERM 301 (10/1/13) was in effect. At page 1 of that manual it states: “For energy related emergencies, the SER crisis season runs from November 1 through May 31. Requests for those services will be denied June 1 through October 31.” Policy dictates that any request received between June 1 and October 31 will be denied.

In conclusion, the Claimant's first application was approved but, because she did not keep her payment agreement with her utility provider, and did not pay her co-pay, the Department properly closed her SER. Then, when she applied during the non-crisis season, the Department was required to deny her application.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it issued its SER Decision Notices.

DECISION AND ORDER

Accordingly, the Department's SER decisions are **AFFIRMED**.


Darryl Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/3/2014**

Date Mailed: **11/3/2014**

DJ/jaf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **may** order a rehearing or reconsideration on its own motion.

MAHS **may** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

