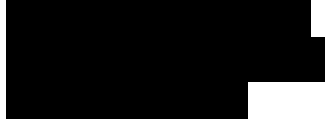


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-006387
Issue No.: 5001
Case No.: [REDACTED]
Hearing Date: September 23, 2014
County: Genesee-District 6 (Clio Rd)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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, a telephone hearing was held on September 23, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator [REDACTED].

ISSUE

Did the Department properly determine Claimant's eligibility for State Emergency Relief (SER)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for SER on May 30, 2014, to get help with paying a security deposit required by Consumer's Energy (Consumer's) for her new home on [REDACTED].
2. The Department contacted Consumer's and was told Claimant was not facing a shut-off of her energy.
3. On June 3, 2014, the Department denied Claimant's application because there was no shut-off amount.
4. On June 12, 2014, Claimant applied again for SER.
5. On June 16, 2014, the Department was informed by Consumer's that she was facing a shut-off because she had not paid the deposit.

6. Also on June 16, 2014, the Department denied Claimant's application because it was not submitted during the crisis season.
7. On June 27, 2014, Claimant requested a hearing.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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 Mich Admin Code, R 400.7001 through R 400.7049.

Department policy concerning SER for energy services is found in ERM 301. When Claimant applied on June 4, 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. Claimant's first application was received within the crisis season; her second application was received late. The Department properly denied her second application because it was not received within the crisis season. The fundamental issue is whether the Department properly denied her first application.

Exhibit 1 Page 17 shows Claimant had a move-in date at her home of April 27, 2014. It shows there was no shut-off notification, but it also shows that, as of June 3, 2014, Claimant had a balance of [REDACTED]. Neither witness could explain exactly why, but Claimant was being held responsible by Consumer's for utilities owed by the prior occupant of the home on Shawnee. (Claimant is purchasing the home on [REDACTED], paying [REDACTED] per month until she has paid the [REDACTED] purchase price.) Exhibit 2 Page 3 is a shut-off notice from Consumer's dated June 11, 2014, scheduling Claimant for a shut off on June 21, 2014, unless she paid [REDACTED]. Exhibit 2 Page 4 is a letter dated May 23, 2014, from Consumer's, stating she needed to pay "past-due balances and/or a security deposit, if necessary." Exhibit 2 Page 2 is a statement from Consumer's, with a due date of June 25, 2014, showing energy charges of [REDACTED], and a [REDACTED] "deposit request." The billing period was April 27, 2014, to May 30, 2014.

The May 23 letter does not specifically state how much was due for past-due balances, or for a security deposit. It is worth noting that the monthly statement showed a [REDACTED] balance for "last month's account balance." The logical conclusion is that [REDACTED] was due as a deposit when Consumer's sent the May 23 letter, because she had no prior balance and the billing cycle had not yet ended. It was because that deposit was unpaid that Claimant was facing a shut-off when she applied on May 30, 2014.

As stated in ERM 301, "Deposits, special trip charges, pilot relights, pressure checks, reconnect fees, and related charges such as storage tank (pig) installation, delivery or rental can be paid if they are necessary to prevent an emergency and are required by the provider. These fees are not included in the fiscal year cap, but do have a dollar limit per occurrence." Because Claimant was facing a shut-off, during the crisis season, on account of her inability to pay a deposit, the Department erred in denying 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 did not act in accordance with Department policy when it determined that Claimant was not eligible for SER regarding her May 30, 2014, application. The Department acted in accordance with Department policy when it determined that Claimant was not eligible for SER regarding her June 12, 2014, application.

DECISION AND ORDER

Accordingly, the Department's June 12, 2014, decision is affirmed, but its May 30, 2014, decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's May 30, 2014, SER application, redetermine her SER benefit eligibility based upon the [REDACTED] deposit request, and provide Claimant with benefits if she is found to be eligible.


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

Date Signed: **9/24/2014**

Date Mailed: **9/24/2014**

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:

