

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

IN THE MATTER OF:

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Reg. No.: 14-017219
Issue No.: 5001
Case No.: ██████████
Hearing Date: February 25, 2015
County: WAYNE-DISTRICT 49
(GRAND RIVER/WAR)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 February 25, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Family Independence Manager.

ISSUE

Did the Department properly deny Claimant's State Emergency Relief (SER) application for heat and electricity?

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 April 15, 2014, the Department provided an e-mail from its own Policy-SER assistance, which indicated clients are not eligible for SER assistance for any utility services for which they have enrolled in the Low-Income Self Sufficiency Plan (LSP). See Exhibit 1, p. 19. The e-mail further stated that this program includes energy assistance dollars from DHS, and DHS has already committed the available federal and state energy assistance funding to offer affordable monthly payment plans and other benefits of the LSP program. See Exhibit 1, p. 19. Finally, the e-mail indicated if clients make their low and affordable monthly payment, the difference between their actual bill and monthly payments will be paid by this fund. See Exhibit 1, p. 19. As a result, the email indicated clients are no longer eligible to apply for SER assistance for the 2013-14 fiscal year of November 1, 2013 through September 30, 2014. See Exhibit 1, p. 19.

2. Effective October 27, 2014, Claimant was enrolled in LSP program that allows Claimant to make affordable monthly payments based on her income. See Exhibit 1, pp. 6-10 and 17-24. Claimant's remaining portion of her monthly bill is paid with energy assistance funds. See Exhibit 1, p. 22.
3. On November 7, 2014, Claimant applied for SER assistance with heat and electric. See Exhibit 1, pp. 11-16.
4. Claimant's heat and electric bill indicated a past due amount; but her collection status for heat and electricity indicated "LSP – Enrolled." See Exhibit 1, pp. 6-10 and 17-24.
5. On November 14, 2014, the Department sent Claimant an Application Notice notifying her that she is not eligible for SER assistance because she does not have an emergency. See Exhibit 1, p. 3. The Application Notice specialist comments indicated case could not be processed. See Exhibit 1, p. 3.
6. On November 21, 2014, the Department sent Claimant a Quick Note notifying Claimant to disregard her earlier decision notice about her SER application. See Exhibit 1, p. 5. The Quick Note further indicated that because she is enrolled in the LSP program with the DTE Energy Company (DTE), the Department cannot pay any of her DTE bill at this time. See Exhibit 1, p. 5.
7. On November 21, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 2-3.

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.

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (October 2014), p. 1. The Department does not authorize an energy-related SER payment for a household when the head of household, or another adult group member, has already been assisted by a participating Michigan Energy Assistance Program (MEAP) grantee within the current fiscal year. ERM 301, p. 1. The Department denies a request for energy services if the Home Energy Solutions (HES) database indicates that the head of household or other adult group member has

received, or is currently receiving, assistance from a MEAP provider for the current fiscal year. ERM 301, p. 1. It is unclear if the LSP program falls under the MEAP.

In this case, the Department argued that Claimant is ineligible for SER assistance for heat and electricity because she is enrolled in the LSP program. In response, Claimant testified that she did not know she was enrolled in the LSP program at the time of application. Moreover, Claimant testified that she is unable to make her monthly payments because her Medicare premiums are now being taken out of her monthly Social Security benefits. See Exhibit 1, p. 2. As such, Claimant sought SER assistance for heat and electricity.

A review of policy at the time Claimant submitted her application and denial of her application found no reference to the LSP program. Effective December 1, 2014, ERM 301 added that if a client is enrolled in a provider-sponsored program through Consumer's Energy, DTE or SEMCO for only one energy service, it may be possible for the household to receive SER assistance for the energy service not covered by the provider's program if no other MEAP assistance has been provided. ERM 301 (December 2014), p. 1. LSP program appears to fall under this category of a provider-sponsored program. However, this policy was not in effect at the time of Claimant's application denial. Moreover, the Department's e-mail references SER applications are in eligible when they are submitted in the fiscal year of November 2013 to September 2014; however, this application was submitted in the following fiscal year. See Exhibit 1, pp. 11-16 and 19. It should be noted that on February 26, 2015, the Department attempted to submit a post hearing correspondence, apparently pertaining to issues related to the LSP program, however the hearing record had closed and this additional correspondence cannot be reviewed or considered.

Based on the above information, the Department failed its burden of showing that Claimant's application was properly denied due to being enrolled in the LSP program. As stated above, the Department provided e-mails, language from the DTE website, etc...but ultimately, Department policy did not state that it can deny Claimant's SER application for being enrolled in the LSP program.

Nevertheless, the Department properly denied Claimant's SER application for heat and electricity because there was no emergency present at the time Claimant submitted her application.

SER prevents serious harm to individuals and families, and assist applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101 (March 2013), p. 1. SER applicants must have an emergency which threatens health or safety and can be resolved through issuance of SER. ERM 101, p. 1. The Department denied services for applicants who fail to meet this requirement. ERM 101, 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. ERM 301 (October 2014), p. 1. The amount of the payment is the minimum necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. ERM 301, p. 1. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. ERM 301, p. 1.


Based on the foregoing information and evidence, the Department properly denied Claimant's SER application because she did not have an emergency present. See ERM 101, p. 1 and ERM 301, p. 1. As stated above, Claimant's heat or electric service must be in past due status, in threat of shutoff or is already shut off...See ERM 301, p. 1. However, the evidence presented that Claimant did not fall under any of these requirements. Claimant's heat and electric bill indicated a past due amount; but her collection status for heat and electricity indicated "LSP – Enrolled." See Exhibit 1, pp. 6-10 and 17-24. Therefore, it is reasonable to infer that Claimant was not in past due status because she was enrolled in a program that allows her to make affordable monthly payments based on her income as of October 27, 2014. See Exhibit 1, pp. 6-10 and 17-24. There was no evidence provided by the Claimant of a threat of shutoff or already in shut-off status (i.e., shut off notice). Because Claimant's heat and electric service was not in past due status, in threat of shutoff or is already shut off, there is no SER emergency present and the Department properly denied her application dated November 7, 2014, in accordance with Department policy. See ERM 101, p. 1 and ERM 301, p. 1.

It should be noted that the Department indicated in the original denial notice that the case could not be processed and also sent Claimant a Quick Note indicating her to disregard the previous denial notice as well. See Exhibit 1, pp. 3 and 5. These two actions by the Department is harmless error as the analysis above accepts the Department's original conclusion on November 14, 2014, that she was not eligible for SER assistance because there was no emergency present.

DECISION AND ORDER

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 properly denied Claimant's SER assistance application (dated November 7, 2014) for heat and electricity.

Accordingly, the Department's SER decision is **AFFIRMED**.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/26/2015**
Date Mailed: **2/27/2015**
EJF/tm

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 48909-8139

CC:

[REDACTED]