

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-001831
Issue No.: 5001
Case No.: [REDACTED]
Hearing Date: March 18, 2015
County: Wayne (19)

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, a telephone hearing was held on March 18, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], hearing facilitator.

ISSUE

The issue is whether DHS properly denied Claimant's State Emergency Relief (SER) for 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 [REDACTED], Claimant applied online for SER requesting energy assistance.
2. On an unspecified date, DHS made an unsuccessful telephone call to Claimant in an attempt to interview Claimant.
3. Claimant was not uncooperative in the application or interview process.
4. On [REDACTED], DHS denied Claimant's SER application due to Claimant's alleged failure to participate in an interview.
5. On [REDACTED], Claimant requesting a hearing to dispute the SER denial.

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 Mich Admin Code, R 400.7001 through R 400.7049. Department policies are contained in the Department of Human Services Emergency Relief Manual (ERM).

Claimant requested a hearing to dispute an SER application denial. Claimant's SER application requested assistance with an eviction and energy services. Claimant's testimony and her hearing request only indicated a dispute concerning energy services.

It was not disputed that Claimant's SER application was denied due to a failure to be interviewed. During the hearing, it was thought that Claimant's status as an active Food Assistance Program and/or Medical Assistance recipient justified a finding that no interview was required.

The in-person interview is waived for applicants who are active for another DHS program or have applied online through MI Bridges; however a phone interview is required and the Individual Interviewed screen must be completed for each SER. ERM 103 (10/2013), p. 5. An identical policy applies for clients who apply for SER online.

Based on the above-cited policy, DHS had an obligation to interview Claimant by telephone. Thus, DHS can justify a denial of SER based on a claimant failure to be interviewed. Unfortunately, the interview requirement was not recognized during the hearing. Some evidence can be derived from Claimant's hearing request and the DHS Hearing Summary.

DHS alleged that "specialist tried contacting customer by phone but customer never answered." The DHS statement does not identify if one or more calls were made to Claimant. The DHS statement does not indicate on what date or time that a telephone call to Claimant was made. DHS evidence also did not identify if Claimant was left a message or if an appointment for a telephone interview was scheduled.

Claimant's hearing request alleged that DHS "never returned a phone call to me" and that "there has been no honest attempt to speak to me". Claimant's hearing request was indicative that Claimant called DHS but was not able to speak with her specialist.

Applicants must cooperate with the application process. ERM 102 (10/2013), p. 1. DHS policy appears to provide no specific guidance on application interview procedures. In lieu of specific policy, commonsensical standards will be applied. An appropriate commonsensical standard is that clients make a reasonable effort to cooperate.

Claimant alleged in her hearing request making several unsuccessful phone calls to DHS. It is very believable that a client in jeopardy of losing gas and electrical service

would have contacted DHS on numerous occasions shortly after applying for SER. Claimant's behavior is not indicative of a client who was trying to be uncooperative in getting interviewed.

DHS has the burden of proof to establish non-cooperation by Claimant in the application process. Presented DHS evidence was insufficient to establish a lack of cooperation by Claimant.

Based on presented evidence, it is found that Claimant was not uncooperative in the SER application process or in failing to be interviewed. Accordingly, the denial of SER was improper.

The appropriate remedy is for DHS to reregister and reprocess Claimant's application. In processing Claimant's application, DHS shall rely on Claimant's circumstances at the time of application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's SER application. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's SER application dated [REDACTED] for energy services, subject to the finding that Claimant was not uncooperative in the application process by failing to be interviewed; and
- (2) initiate processing of Claimant's application based on Claimant's circumstances as of [REDACTED].

The actions taken by DHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/25/2015**

Date Mailed: **3/25/2015**

CG / hw

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:

