

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No. 20112937
Issue No. 5013, 2027
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: November 22, 2010
Wayne County DHS(49)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on November 22, 2010. The claimant appeared and testified. [REDACTED], the Claimant's mother also appeared and testified. Michael Fritz, FIM and Connie Peterson, ES appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's State Supplementary Security Income Program (SSP) Quarterly Payment.

Whether there is an issue to be determined regarding the Claimant's application for SER.

FINDINGS OF FACT

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

1. The Claimant applied for SER on August 6, 2010. The claimant's application was not processed timely.
2. The Claimant provided two estimates from [REDACTED] and [REDACTED] for replacement of her hot water heater. The estimates were not approved by the Department because both companies would not participate as a state vendor.

3. The SER application and request for a water heater replacement is pending submission by the Claimant an estimate for repair by a contractor who is licensed and willing to be issued a vendor number by the state of Michigan.
4. The Claimant's SER application has not been denied, and is still pending. No formal action to deny the application has been taken by the Department.
5. The State SSP payment was not issued to the Claimant for the quarter of July, August and September 2010 because the Department's SOLQ report indicated that the Claimant would not receive SSI benefits in June 2010. Exhibit 2
6. On August 24, 2010, DHS sent Claimant a Notice of State Quarterly SSP Payment Change, stating SSP would not be paid because the Claimant had not received SSI from the Federal government. Exhibit 1.
7. At the hearing, the Claimant submitted a letter from Social Security indicating that \$56.60 per month had been received in SSI by the Claimant's daughter during the period in question, July, August, and September. Claimant Exhibit 1.
8. The Department erroneously denied the SSP benefits to the Claimant's daughter.
9. The Claimant requested a hearing on October 12, 2010, which was received by the Department on October 26, 2010, protesting the status of her SER application and the denial of her SSP quarterly payment.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The State Supplementary Security Income program was established pursuant to Title XVI of the Social Security Act in 42 USC 1381, *et seq.*, and implemented by the provisions of Title 20 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the State SSI program pursuant to 2002 PA 529, MCL 400.10, *et seq.*, and by agreement between the State of Michigan and the United States Secretary of Health and Human Services (Secretary). Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The Department properly issued its Notice of Quarterly SSI Payment Change advising the claimant that she would not receive the quarterly supplement of SSP based on its SOLQ report which indicated that the Claimant had not received SSI benefits from Social Security. However, it is clear that the SOLQ report was incorrect. Based upon

the letter from Social Security provided by the Claimant at the hearing, Claimant did receive SSI for July, August, and September and thus was entitled to be paid the SSP quarterly supplement.

BEM 660, page 1 provides that Payments are made for only those months the recipient received a regular monthly federal benefit. Based on the proofs presented at the hearing, the Claimant was entitled to the SSP quarterly payment and therefore the Department must issue a supplement to pay SSP benefits the Claimant was entitled to receive for the period July through September, 2010.

SER Application Status

BAM 600 governs the circumstance under which a client is entitled to a hearing.

The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the department; **and**
- **The reason(s) for the action; and**
- **The specific manual item(s)** that cites the legal base for an action, or the regulation, or law itself. See BAM 220.

SOAHR may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.

For **FAP only**, the current level of benefits or denial of expedited service. BAM 600 page 3.

In this case, no notice of case action has been issued by the Department with regard to the Claimant's SER application which is still open and pending receipt of a qualified licensed contractor who will apply to become a state vendor for payment of services. Although the Department did not act in a timely manner in processing the application, no action had been taken to negatively affect the Claimant's SER application at the time of the hearing. The Claimant is still entitled to submit a further qualified estimate through a licensed contractor for the requested assistance to replace her hot water heater thus this matter is not ripe for a hearing. Should the claimant be further aggrieved in some manner by the Department with regard to the SER application, at that time she may request a hearing.

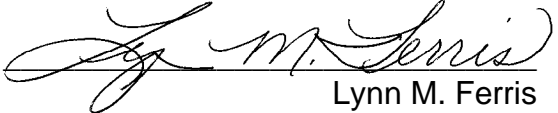
At this time, while the standard of promptness for processing the SER application was not met, the Department has advised the Claimant about the steps she must take to be eligible for SER with regard to her contractor and thus no relief with regards to the application is necessary. BEM 600

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's decision to deny the SSP quarterly supplement was in error and is REVERSED. The Department has, not as yet, made a decision regarding the Claimant's SER application and thus until it takes some action, no further review or relief is appropriate or can be ordered. When the Claimant provides another contractor estimate for replacement of the hot water heater to the Department, it must review the estimate and either grant or deny the SER at that time.

Accordingly, it is ORDERED:

1. The Department shall issue a supplement to the Claimant for the SSP quarterly payment for the period of July, August, and September 2010.
2. The Claimant's hearing request for SER is dismissed as the Department has not taken a negative action regarding the application, which is still open.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/21/11

Date Mailed: 01/21/11

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

LMF/dj

cc:

