

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

Reg. No.: 2013-37748  
Issue No.: 2018; 4003; 5006  
Case No.: ██████████  
Hearing Date: June 26, 2013  
County: Wayne County (35)

**ADMINISTRATIVE LAW JUDGE:** Eric Feldman

**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 telephone hearing was held on June 26, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and ██████████ ██████████ ██████████ ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

**ISSUE**

Did the Department properly process Claimant's State Emergency Relief (SER) application?

**FINDINGS OF FACT**

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

1. In March of 2013, Claimant applied for SER benefits.
2. On March 11, 2013, the Department sent Claimant a State of Emergency Relief Decision Notice. Exhibit 1, p. 8.
3. On March 19, 2013, Claimant filed a hearing request, protesting (i) her SER application and (ii) her Medical Assistance (MA) and State Disability Assistance (SDA) application. Exhibit 1, pp. 3 and 4.

## **CONCLUSIONS OF LAW**

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

### **Preliminary matter**

The Medical Assistance (MA) program is established by the 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.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Michigan Administrative Rules 400.3151 through R 400.3180.

As a preliminary matter, Claimant filed an application for Medical Assistance (“MA”) and State Disability Assistance (“SDA”) on April 5, 2011. On January 30, 2013, the Department, via Quick Note, sent Claimant notification that the April 5, 2011 MA/SDA application was denied based on the failure to attend a scheduled consultative evaluation. On the March 19, 2013 Request for Hearing, Claimant asserted that the April 5, 2011 application was unresolved. See Exhibit 1, p. 5. On February 20, 2013, Claimant requested a rehearing of the Hearing Decision mailed on February 11, 2013. On July 2, 2013, Claimant’s Request for Rehearing was granted. As such, a hearing will be scheduled regarding the April 5, 2011 MA/SDA application. A Notice of Hearing will be issued informing the parties of the date and time for hearing. The hearing will be scheduled for in-person.

### **SER application**

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by, Michigan Administrative Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

In March of 2013, Claimant applied for SER benefits, which included (i) non-heat electricity; (ii) heat; (iii) water; and (iv) property taxes. See Exhibit 1, p. 8. On March 11, 2013, the Department sent Claimant a SER Decision Notice. Exhibit 1, p. 8. First, the SER Decision required that Claimant pay a \$65.72 copayment for the non-heat electricity service and then once Claimant pays her copayment, the Department would pay \$589.65 towards the non-heat electricity. Exhibit 1, p. 8. Second, the SER Decision did not require any copayments for the heat service and the Department would pay \$112.72 towards the heat service. Third, the SER Decision required that Claimant

pay a \$524.81 copayment for the water service and then once Claimant pays her copayment, the Department would pay \$175.00 towards the water service. Exhibit 1, p. 8. Fourth, the SER Decision denied the property tax request in the amount of \$2,000 because Claimant's shelter is not affordable according to SER requirements. Exhibit 1, p. 8.

Claimant's request for hearing states that Claimant has no income to pay her copayment for electricity, heat, and water. See Exhibit 1, p. 5. Moreover, Claimant did not understand why the Department denied her request for property taxes. See Exhibit 1, p. 5.

At the hearing, the Department only presented the SER Decision Notice. The Department did not present any SER budget and/or documents to indicate how the Department calculated her copayments and how it denied Claimant's property taxes. Moreover, the Department was unable to present any evidence of how it calculated the heat payment. See Exhibit 1, p. 8.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (February 2013), p. 28. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600, p. 28. Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, p. 28. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 30.

The Department failed to meet its burden of proof when it attempted to explain in its case presentation how it determined the calculations in the SER Decision Notice. The Department did not present any budget or evidence on how it calculated each amount for the three services Claimant requested. The Department was not able to present any SER budget and/or documents to indicate how the Department calculated her copayments, how it calculated the heat payment, and why the Department denied Claimant's property taxes.

Based on the foregoing evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy on how it processed Claimant's SER Decision Notice effective March 11, 2013.


### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act properly as to the SER decision.

Accordingly, the Department's SER decision is REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister and initiate processing of the SER application with the effective date of March 11, 2013;
2. Issue supplements to Claimant for any SER benefits she was eligible to receive from March 11, 2013 application; and
3. Notify Claimant in writing of its SER decision in accordance with Department policy.



**Eric Feldman**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: July 10, 2013

Date Mailed: July 10, 2013

**NOTICE:** Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that affect the substantial rights of the claimant,
  - failure of the ALJ to address other relevant issues in the hearing decision.

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Request must be submitted through the local DHS office or directly to MAHS by mail at  
Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

EJF/cl

cc: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
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