

**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.: 2013-58428
Issue No.: 5016
Case No.: ██████████
Hearing Date: August 29, 2013
County: SSPC-East (97-98)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 August 29, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant ██████████. Participants on behalf of the Department of Human Services (Department) included ██████████.

ISSUE

Did the Department properly deny 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. On July 1, 2013, Claimant applied for SER for heat and electric.
2. On July 2, 2013, the Department sent Claimant a SER verification checklist (VCL) requesting various documents/verifications by July 8, 2013.
3. On July 9, 2013, the Department denied Claimant's SER application for failure to reply timely to the request for verifications.

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 by Mich Admin Code, R 400.7001 through R 400.7049.

At the hearing, Claimant testified that she had returned the requested forms and proofs on July 8, 2013, and had the facsimile receipt from that date to prove it. This Administrative Law Judge finds this testimony to be credible.

The Department presented documentation of its having sent a VCL on July 1, 2013; however, all of the forms that were also sent to Claimant are dated July 2, 2013.

Department policy specifically states that the verifications must be returned in eight (8) days from the date of application. The return date could not be any earlier than July 9, 2013, regardless of the date that appears on the Department's SER VCL.

The Department's SER VCL states that "proofs due by July 8, 2013," one day earlier than demanded by the Department's policy. SER 103 (March 2013).

In any event, the Department's tender of the SER VCL fails according to the Department's policy and the finding that Claimant was credible in her testimony of having submitted the required documentation in a timely manner is controlling.

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 .
- did not act in accordance with Department policy when it failed to complete the processing of Claimant's July 1, 2013, SER application.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .

DECISION AND ORDER


Accordingly, the Department's decision is

- AFFIRMED.
- REVERSED.

AFFIRMED IN PART with respect to _____ and REVERSED IN PART with respect to _____.

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. Initiate the reregistration and processing of Claimant's July 1, 2013, SER application for heat and utilities.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 21, 2013

Date Mailed: November 21, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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:

2013-58428/MJB

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

MJB/pf

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