

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-7717
Issue No(s): 5012; 5016; 3008
Case No.: [REDACTED]
Hearing Date: November 27, 2013
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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, telephone hearing was held on November 27, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Assistance Payments Supervisor, [REDACTED].

ISSUES

Did the Department properly process Claimant's request for State Emergency Relief (SER) Assistance with shelter emergency, energy and utility services? Did the Department properly take action to reduce the Claimant's monthly Food Assistance Program (FAP) allotment?

Regulations governing the hearing and appeal process for recipients of Food Assistance Program (FAP) benefits in Michigan who, as a group, are affected by a federal or state initiated change in the law affecting all recipients are found in 7 CFR 273.12(e) and Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(3), in pertinent part, states:

A hearing shall not be granted when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant computation.

See also Bridges Administrative Manual (BAM) which articulates policies regarding the hearing process. The Michigan Administrative Hearing System will **not** grant a hearing regarding the issue of a mass update required by state or federal law **unless** the reason for the request is an issue of incorrect calculation of program benefits or patient-pay amount. BAM 600.

In the instant case, the evidence and testimony provided confirm that Claimant is disputing a change in his Food Assistance Program (FAP) allotment that resulted from a mass change in law and policy as defined above, relating to a federal adjustment to eligibility standards, allotments and deductions, and/or State adjustments to utility standards. 7 CFR 273.12(e)(1). As there is no right to contest the change in law or policy, the Request for Hearing regarding the FAP reduction is DISMISSED.

FINDINGS OF FACT

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

1. The Claimant applied for SER assistance with shelter emergency, energy and utility services. He also applied for assistance with cooking gas, but the uncontested testimony was that he does not have cooking gas.
2. On October 11, 2013, the Department sent Claimant a SER Decision Notice.
3. On October 21, 2013, Claimant filed a hearing request, protesting the Department's SER decision.

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

Additionally, ERM 303 (2013) p. 6, provides that proper verification of potential homelessness consists of an eviction order or court summons regarding eviction. A demand for possession non-payment of rent or a notice to quit is not sufficient. In this case, it is not contested that the Claimant only submitted a demand for possession non-payment of rent. Therefore, the Administrative Law Judge concludes that the Department was acting in accordance with its policy when taking action to deny the Claimant's application for SER with relocation services, as he was not potentially homeless.

ERM 301 (2013) p. 1, provides that, for energy related emergencies, the SER crisis season runs from November 1 through May 31. Requests for those services will be denied June 1 through October 31. As the Claimant was asked for and submitted his verification of Notice of Intent to Shut-Off Service on October 7, 2013, the Administrative Law Judge concludes that the Department was acting in accordance with its policy when taking action to deny the Claimant's SER application for assistance with energy. The uncontested testimony and Department's Exhibit 4 indicate that the Claimant's water and sewer account was not in shut-off status. ERM 302 (2013) p. 1, 4, provide that SER helps to restore or prevent shut off of a utility service specified in this item

when service is necessary to prevent serious harm to SER group members. A shut-off of a water or sewer service must be verified by either of the following:

- A disconnect notice from the utility.
- Information from the utility provider's secure website.
- An overdue or delinquency notice when the water or sewer is not disconnected but the arrearage is added to the local tax bill.

The verification in the record indicates that the Claimant's water/sewer account was not in shut-off status. As such, the Administrative Law Judge concludes that the Department was acting in accordance with its policy when taking action to deny the Claimant's SER application for assistance with utilities.

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 issued its SER Decision Notice.

DECISION AND ORDER

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

/s/
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/2/13

Date Mailed: 12/3/13

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:

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

SEH/tb

cc:

