

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-65906
Issue No.: 5016
Case No.: [REDACTED]
Hearing Date: October 17, 2013
County: Wayne (82-17)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on October 17, 2013, in Detroit, Michigan. Participants on behalf of Claimant included Claimant [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUES

1. Did the Department properly process the decision of the Administrative Law Judge (ALJ) from the March 18, 2013, hearing concerning Claimant's State Emergency Relief (SER) Decision Notice dated September 12, 2013?
2. Did the Department properly process Claimant's August 2013 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 September 12, 2012, the Department denied Claimant's SER application for assistance with energy services because of a child support noncooperation sanction.
2. Claimant timely requested a hearing.

3. At the March 13, 2013, hearing on the SER matter, the Department agreed to rescind the July 28, 2012, child support noncompliance letter and designate Claimant as compliant as of July 28, 2012.
4. The Office of Child Support (OCS) did not designate Claimant as compliant until July 18, 2013.
5. In August 2013, Claimant submitted another SER application concerning energy and water services.
6. On August 6, 2013, the Department issued a SER Decision Notice agreeing to pay \$0 towards Claimant's water bill and \$450 towards Claimant's energy bill upon Claimant's payment of \$524.49.
7. On August 19, 2013, Claimant filed a hearing request disputing the Department's actions concerning her SER application and concerning her Food Assistance Program (FAP) and Medical Assistance (MA) cases.

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).

Additionally, in her hearing request, Claimant contested the Department's actions concerning SER, FAP and MA. At the hearing, Claimant clarified that she had requested a hearing only with respect to SER and FAP. Claimant's FAP issue is addressed in a separate hearing and Hearing Decision for Register Number 2013-62278. The hearing proceeded with respect to Claimant's SER issue.

Claimant's first concern was the Department's failure to comply with a Settlement Order issued in connection with a March 13, 2013, hearing. In the March 13, 2013, hearing addressing the processing of Claimant's September 2012 SER application for assistance with energy services, the Department agreed to remove the child support noncompliance entered on Claimant's record on July 28, 2012. However, the OCS did not find Claimant compliant and did not remove the child support sanction until July 17, 2013.

As of the October 17, 2013, hearing, the Department had failed to remove the July 28, 2012, noncompliance and reprocess the September 2012 SER application. Although the OCS was concerned that it was not notified of the March 18, 2013, hearing and did not believe the Settlement Order was appropriate, it acknowledged that it was a part of the Department and it did not timely request a rehearing or reconsideration in response to the Settlement Order. Because the Department was bound by the Settlement Order, it was required per the terms of the order to remove the July 28, 2012, child support

sanction. In failing to do so and reprocess the SER application, the Department did not act in accordance with Department policy. See BAM 600 (July 2013), p. 31.

Claimant further contended that because the Department failed to comply with the Settlement Order and timely reprocess her September 2012 SER application, her energy and utility bills continued to grow at an unmanageable rate. Claimant requested that the August 2013 SER application be reprocessed after the September 2012 application is processed so that it would reflect any payments made pursuant to the September 2012 application.

DECISION AND ORDER

Accordingly, the Department's September 12, 2012, and August 8, 2013, SER decisions are REVERSED.

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. Remove the child support sanction entered onto Claimant's record on or about July 28, 2012;
2. Reregister and reprocess Claimant's August 2012 SER application based on the circumstances at the time of application;
3. After the August 2012 SER application is reprocessed, reregister and reprocess Claimant's September 2013 SER application based on the circumstances at the time of application;
4. Issue supplements to Claimant's provider for SER benefits which Claimant is eligible to receive, if any, based on the reprocessed applications; and
5. Notify Claimant in writing of its decisions on the applications.



Alice C. Elkin

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

Date Signed: October 21, 2013

Date Mailed: October 22, 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:

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

ACE/pf

cc:

