

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

**IN THE MATTER OF:**



Reg. No.: 2014 313  
Issue No.: 5001  
Case No.: [REDACTED]  
Hearing Date: December 9, 2013  
County: Wayne (41)

**ADMINISTRATIVE LAW JUDGE:** Lynn M. Ferris

**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 December 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] L. [REDACTED] Eligibility Specialist.

**ISSUE**

Did the Department properly deny Claimant's application for State Emergency Relief (SER) assistance with electrical services and gas services?

**FINDINGS OF FACT**

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

1. Claimant filed an application for SER assistance with electrical services and gas services (heating).
2. On September 4, 2013, the Department sent Claimant a SER Decision Notice denying the application. Exhibit 1
3. On September 27, 2013, Claimant filed a hearing request disputing the Department's action.

**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 Michigan Admin Code, R 400.7001 through R 400.7049.

Additionally, at the hearing, the Department testified that Claimant's September 2013 SER application was denied because, for the fiscal year running from October 1, 2012 to September 30, 2013, Claimant had already hit her fiscal year cap for assistance (\$450) with electrical services at the time of the application. The Department is authorized to pay an energy provider the minimum necessary to prevent shutoff or restore service, **up to the fiscal year cap**, provided that payment will resolve the emergency and the energy provider will maintain or restore service for at least 30 days. ERM 301 (March 1, 2013), pp. 1, 10. The Claimant did not dispute that the fiscal cap for electrical services had been met.

Effective July 1, 2013, the fiscal year cap for energy-related services reverted to the level applicable prior to February 1, 2013, which was \$450. ER B 2013-001 (February 2013), p. 1; ERM 301 (October 2012), p. 8. Therefore, at the time of the Department's September 4, 2013, SER Decision Notice, the applicable fiscal year cap for assistance by the Department for residential electric service was \$450.

At the hearing, the Department established that at the time of the application the Claimant owed \$ [REDACTED] for electrical services. Because the Department had paid Claimant's electrical provider amounts up to or over \$450 between October 1, 2012 and the date of her September 2013 SER application, Claimant had reached her fiscal year cap at the time of the application. In order for the Claimant to receive SER assistance for her gas heating she would have had to pay her electrical balance.

The Department's Decision Notice denied the Claimant's application totally stating: "Your income/asset copayment is equal to or greater than the amount needed to resolve the emergency." This stated reason for denying the application was incorrect. First, there is no income copayment required for Energy Services. ERM 208 pp.1 (10/1/13). Also the Decision Notice does not advise the Claimant that she was required to pay her electrical bill before the Department could assist the Claimant with her gas bill. Exhibit 1. The Claimant's gas bill amount was \$ [REDACTED]. Clearly the Claimant was not properly advised that she was required to pay her electric bill in order to receive assistance with her gas bill. Even if the Claimant had paid her entire electric bill, the Claimant might still have owed some amount toward her gas bill unless she could establish that she had paid at least \$ [REDACTED] per month for her gas; \$ [REDACTED] is the minimum monthly amount which Department policy requires to be paid and requires that the applicant, if the monthly amount is not paid, any shortfall must also be paid before any SER payment can be authorized. ERM 301 pp. 7 (3/1/13) Additionally, the Department did not present any evidence as to what amounts, if any, the Claimant paid toward either her electric or gas bills during the 6 month period preceding the application.

Lastly, the Department testified at the hearing that the Claimant had met her \$450 cap for electricity however, the SER Final Payment information it provided at the hearing

indicated the opposite. See Exhibit 2 and 3. Exhibit 2 is the SER final payment for gas and indicates that the Service cap is met and there was an unmet need of \$ [REDACTED]. Exhibit 3 SER final payment for electricity indicates that the co-payment amount equals or exceeds the need amount. These conclusions contradict the testimony presented by the Department at the hearing and also appear to be incorrect conclusions. Based upon the evidence presented and these contradictions it is determined that the Decision Notice is incorrect and not in accordance with Department policy. Notwithstanding testimony that the Department advised the Claimant that she was required to pay something toward her bill, the Decision Notice as issued was incorrect and the Department's later attempt, if any, to advise the Claimant in light of all the problems raised by the Department's Decision Notice is insufficient to cure the deficiencies.

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 did not act in accordance with Department policy when it denied Claimant's SER application for assistance with electrical and gas services.

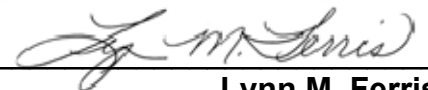
### **DECISION AND ORDER**

Accordingly, the Department's decision is

**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. The Department shall re-register the Claimant's SER application for gas and electricity associated with the September 4, 2013 Decision Notice.
2. The Department shall determine the Claimant's eligibility and allow the Claimant an opportunity to meet any payment obligation (shortfall) she may have had as of September 4, 2013 due to her outstanding electrical bill \$591.43 and resulting from her failure, if any, to make required monthly payments for gas energy services based upon the facts presented at the time of the Department's original Decision Notice dated September 4, 2013 and in accordance with this Decision.



**Lynn M. Ferris**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: January 7, 2014

Date Mailed: January 7, 2014

**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

LMF/hj

cc:

