

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

IN THE MATTER OF:



Reg. No.: 2014-13493
Issue No(s): 5001
Case No.: [REDACTED]
Hearing Date: February 5, 2014
County: Macomb County DHS #12

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 February 5, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Eligibility Specialist.

ISSUE

Did the Department properly deny the Claimant's State Emergency Relief (SER) applications for furnace repair?

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 August 2013, the Claimant applied for SER for furnace repair and home repairs-non energy.
2. On August 30, 2013, a SER Decision Notice was issued to the Claimant stating the SER requests were denied because the contractor does not have a valid license to provide the services.
3. On September 19, 2013, the Claimant applied for SER for furnace repair and home repairs-non energy.
4. On September 27, 2013, a SER Decision Notice was issued to the Claimant stating the SER requests were approved, with a portion the Claimant was responsible to pay, and the original bills for the repairs had to be provided by October 18, 2013 or payment may not be made.

5. On October 24, 2013, the Claimant applied for SER for furnace repair and home repairs for hot water heater.
6. On November 14, 2013, a SER Decision Notice was issued to the Claimant stating the SER request for energy related home repairs was denied because the shelter was not affordable according to SER requirements.
7. On November 19, 2013, the Claimant filed a request for hearing contesting the Department's determinations regarding the furnace repair¹.

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.

SER assists with home repairs to correct unsafe conditions and restore essential services, including both energy-related and non-energy related home repairs. ERM 304

Electrical, plumbing and furnace repairs or replacements can only be approved if the contractor holds a valid license issued by the Bureau of Commercial Services at the Department of Energy, Labor and Economic Growth. ERM 304.

ERM 401 addresses the authorization period. The SER authorization period is 30 days. The authorization period begins on the date the local office receives a signed application for SER or receives an electronic application from MI Bridges and ends 29 days later. For example: Application filed on March 1. The authorization period is March 1 - March 30. ERM 401.

One of the eligibility requirements for home repairs is that the ongoing cost of maintaining the home is affordable to the SER group; see ERM 207, Housing Affordability. ERM 304

ERM 207 addresses housing affordability. Total housing obligation means the total amount the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. Renters can have a higher total housing obligation if heat, electricity and/or water/cooking gas are included. ERM 207.

¹ During the telephone hearing proceedings, the Claimant testified that the electrical repair has been taken care of and the only remaining SER issue is the furnace repair.

Authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. An SER group that cannot afford to pay their ongoing housing costs plus a ny utility obligations will not be able to retain their housing, even if SER is authorized. ERM 207.

Deny SER if the group does not have sufficient income to meet their total housing obligation. The total housing obligation cannot exceed 75 percent of the group's total net countable income. ERM 207.

Pursuant to ERM 207, to determine whether an SER group meets the Housing Affordability requirement:

- Multiply the group's total net countable income by 75 percent. The result is the maximum total housing obligation the group can have based on their income, and be eligible for SER housing services, and
- Refer to the table ² at the end of this item for any increases in the basic 75 percent test if the group is renting and heat, electric or water/cooking gas is included in the rent. Multiply the resulting percentage by the group's total net countable income. The result is the absolute total housing obligation the group can have and be eligible for SER housing services.

Under the ERM 207 policy, when utilities are included in rent, up to 100% of income can be considered for the maximum total housing obligation.

In this case, the Claimant first applied for SER in August 2013. It was uncontested that the contractor did not provide verification of his license for the August 2013 SER application. Accordingly, the Department's determination to deny the Claimant's August 2013 SER application must be upheld under the ERM 304 policy requiring that contractor holds a valid license for electrical, plumbing and furnace repairs or replacements.

The Claimant re-applied for SER on September 19, 2013. Accordingly, the authorization period was September 19, 2013 through October 18, 2013. It was uncontested that the Contractor did not even start the work for the furnace repair by October 18, 2013. Accordingly, the furnace repair services approved from the September 19, 2013 SER application were never completed or paid for under the ERM 401 policy that the SER authorization period is 30 days from the application date.

The Claimant re-applied for SER on October 24, 2013. The Claimant had provided the Department with a mortgage statement verifying her monthly mortgage expense was \$[REDACTED]. The Eligibility Specialist testified the Claimant reported she had given birth on October 18, 2013 and was on maternity leave. The Eligibility Specialist asserted the Claimant reported she had no income at the time the October 24, 2013 SER application

² When heat is included in the rent add 15% to the basic 75% housing cost standard. When electric is included in the rent add 5% to the basic 75% housing cost standard. When water or cooking gas or both are included in the rent add 5% to the basic 75% housing cost standard. ERM 207.

was filed. However, it is noted that the Claimant reported child support income of \$85 per month on the SER application. (Exhibit 1)

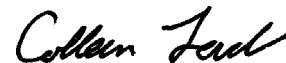
The Claimant testified that she made sure the mortgage was covered before she went on maternity leave. The Claimant noted the township was ticketing her for not complying with getting the repairs done. The Claimant testified she was only off work for four and a half weeks. The testimony indicated the Claimant's employer erred in completing a verification form for the Department regarding when the Claimant returned to work. However, the testimony indicated this verification form was submitted for a more recent application, which was filed after the November 19, 2013 request for hearing. There is no jurisdiction to review determinations regarding any applications filed after the date of the hearing request as part of this appeal. (See BAM 600) The Claimant may wish to file another timely hearing request to contest the determination(s) made by the Department on any applications filed after the November 19, 2013 hearing request. Further, it was uncontested that the Claimant was still off work when the November 14, 2013 SER Decision Notice was issued denying the October 24, 2013 SER application.

The SER application asks the applicant to report "if there have been any changes or if you expect a change in household income in the next 30 days." The Claimant only reported a change date of October 13, 2013. (Exhibit 1) It was uncontested that October 13, 2013 was the date that the Claimant went off work for her maternity leave. Unfortunately, the Claimant did not report she expected to have any change in income, such as returning to work, in the next 30 days on the October 24, 2013 SER application. Accordingly, there was only the \$85 in child support income to be considered in determining if the housing was affordable under the ERM 207 policy for this SER application. The reported income of \$85 was not sufficient to meet the Claimant's housing obligation, the mortgage of \$422.19. There was no reported expectation the income would change in the next 30 days on the October 24, 2013 SER application. Therefore, the denial of the Claimant's October 24, 2013 SER application because the shelter was not affordable according to SER requirements must be upheld based on the information available at that time.

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 denied the Claimant's SER applications.

DECISION AND ORDER

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



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

Date Signed: February 25, 2014

Date Mailed: February 25, 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

CL/hj

cc:

