

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-13752
Issue No.: 4000, 5001
Case No.: [REDACTED]
Hearing Date: February 27, 2014
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 27, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist, and [REDACTED] Specialist.

ISSUE

The issue is whether DHS properly processed 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 [REDACTED], Claimant applied for SER assistance for energy services.
2. On [REDACTED], DHS determined that Claimant was eligible to receive \$900 in SER funds, subject to Claimant paying \$1070.28 by a [REDACTED] deadline.
3. On 1 [REDACTED], Claimant provided DHS with proof that a third pay committed to paying \$1234.18 on Claimant's energy account.
4. On [REDACTED], Claimant requested a hearing to dispute the failure by DHS to issue a \$900 SER payment.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

Claimant clearly testified that she requested a hearing to dispute a failure by DHS to issue an SER payment following a commitment by a third party to make a copayment. Claimant's hearing request was not as clear. Claimant's hearing request was four pages of meandering complaints.

Claimant's hearing request noted various complaints about her specialist. Claimant also testified that she believed DHS personnel repeatedly mistreated her.

The Michigan Administrative Hearing System may grant a hearing about any of the following:

- denial of an application and/or supplemental payments;
- reduction in the amount of program benefits or service;
- suspension or termination of program benefits or service
- restrictions under which benefits or services are provided;
- delay of any action beyond standards of promptness; or
- the current level of benefits or denial of expedited service (for Food Assistance Program benefits only).

BAM 600 (7/2013), p. 3.

Claimant's complaints of alleged mistreatment are not an appropriate basis for a hearing. Claimant is not entitled to an administrative hearing remedy for complaints concerning DHS staff.

Claimant's hearing request stated "I also requesting assistance to repay service I received (SDA) are service that will assistance with the issue was caused by DHS as of [REDACTED]. Claimant's reference to SDA is interpreted to refer to State Disability Assistance, a State of Michigan benefit program. Claimant made no reference to a SDA dispute during the hearing. It is found that Claimant has no SDA dispute despite a reference to SDA in Claimant's hearing request.

The administrative hearing focused on Claimant's allegation that DHS improperly failed to process an SER payment. It was not disputed that DHS approved Claimant for an energy service payment of \$900, subject to a \$1070.28 payment by Claimant. Claimant testified that she provided DHS with proof that a third party would pay \$1234.18 by [REDACTED] on Claimant's energy account.

The participating DHS specialist repeatedly contended that clients must provide proof of payments, not commitments. DHS policy addressed the specialist's contention.

The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. ERM 208 (10/2013), p. 3. Other persons or organizations can also contribute funds on behalf of the SER group. *Id.* Verification that the contribution has been paid must be received before any SER payment can be made. *Id.*

By requiring that a copayment "has been paid" implies that a commitment of a third party payment is insufficient to compel DHS to pay a remaining balance. Other DHS policy contradicts the above-cited policy.

Before authorizing the department's portion of the cost of services, DHS is to verify that the copayment, shortfall, and contribution have been paid by the client or will be paid by another agency. *Id.*, p. 5. "Will be paid" is strongly suggestive that a commitment is enough to compel DHS to make an SER payment.

A general rule of policy interpretation is to interpret contradictions against the party that drafted the contradiction. The general rule is appropriate to apply to the above-cited DHS policy contradiction. It is found that DHS policy allows a payment commitment as adequate proof of copayment.

DHS also contended that Claimant failed to provide proof of a commitment to pay Claimant's SER copayment. Claimant disputed the specialist's testimony. Neither Claimant's nor DHS' testimony was compelling.

Claimant provided a simple statement (see Exhibit 2) from the third party making the copayment. The statement, "WMCAA committed to 1234.18 [REDACTED]" signed by C Scott was written on an SER Decision Notice. Claimant testified that she submitted proof of a third party commitment to DHS prior to [REDACTED]. Claimant's alleged proof contradicted her own testimony. Claimant could not submit a statement signed on [REDACTED] before the date of [REDACTED]. Further, a single handwritten sentence on non-company stationary is far from compelling proof of a payment commitment. It was also odd that Claimant would have requested a hearing on the same date that she supposedly submitted proof of her commitment to DHS. It is remotely possible that Claimant expected DHS to immediately issue SER payment after a copayment commitment was submitted to DHS and that Claimant requested a hearing when DHS failed to issue immediate payment. It is more likely that Claimant did not submit proof of a third party commitment on the date that Claimant alleged.

The DHS argument also had flaws. As noted above, the testifying DHS specialist repeatedly contended that Claimant had to provide proof of payment, not commitment. DHS cited this argument more than the allegation that Claimant failed to submit proof of a payment commitment. DHS even cited the argument after initially conceding that the argument contradicted policy. By repeating the flawed argument, DHS immensely

diminished their secondary argument that Claimant failed to provide proof of a copayment commitment. DHS' repeated reliance on a flawed argument bolstered Claimant's testimony.

During the hearing, Claimant's energy service history was obtained. The history (Exhibit 3) verified that a \$1234.18 payment was made on [REDACTED]. The verified payment is consistent with Claimant's testimony that she submitted proof of a copayment commitment to DHS in 11/2013.

Claimant testified that she asked a DHS specialist to forward paperwork supporting proof of a payment commitment to her specialist. The specialist testified that he recalled giving Claimant's specialist some documents but he could not recall what the documents stated. The testimony by the DHS specialist was consistent with Claimant's testimony.

DHS did not help their case by not having Claimant's case file available for the hearing. Had the file been available, it could have been checked to determine what papers DHS received.

Based on the presented evidence, it is found that Claimant provided DHS with proof of an energy services copayment by the [REDACTED] deadline. Accordingly, it is found that DHS improperly failed to issue SER payment to Claimant.

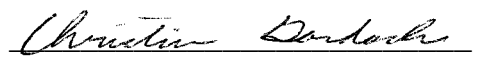
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant may not request a hearing to dispute politeness complaints. It is further found that Claimant did not raise an SDA dispute. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to process Claimant's SER Decision Notice. It is ordered that DHS process Claimant's SER Decision Notice dated [REDACTED], subject to the following findings:

- (1) Claimant provided DHS with proof of a \$1234.18 copayment commitment by [REDACTED]; and
- (2) Claimant's proof of copayment is acceptable proof to compel DHS to process a \$900 SER approval.

The actions taken by DHS are **REVERSED**.


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

Date Signed: 3/21/2014

Date Mailed: 3/21/2014

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

CG/w

cc:

