

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 2014-19165
Issue No(s): 1000;2000;5001
Case No.: ██████████
Hearing Date: March 10, 2014
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 March 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Specialist.

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP), Medical Assistance (MA) and State Emergency Relief (SER) benefits?

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 was an ongoing recipient of FIP and MA benefits.
2. On an unverified date, Claimant submitted an application for SER assistance with furnace repair/replacement.
3. On December 4, 2013, the Department sent Claimant a SER Decision Notice informing her that her request for SER assistance had been denied on the basis that her shelter was not affordable according to SER requirements. (Exhibit 1)
4. On December 16, 2013, Claimant submitted a hearing request disputing the Department's actions.

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).

FIP/MA

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The hearing was requested to dispute the Department's action taken with respect to Claimant's Family Independence Program (FIP) and Medical Assistance (MA) benefits. Shortly after commencement of the hearing, Claimant testified that she understands the actions taken by the Department and that she no longer had any issues to address with respect to her FIP and MA cases. Claimant confirmed that she did not wish to proceed with the hearing concerning FIP and MA. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing is, hereby, **DISMISSED**.

SER

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.

Housing affordability is a condition of eligibility for SER benefits for assistance with energy related home repairs, such as repair or replacement of a furnace. ERM 207; ERM 304. The Department will authorize SER services only if the group has sufficient income to meet ongoing housing expenses. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. ERM 207, p.1.

In order to determine whether the Claimant's housing is affordable, the Department must multiply the group's total net countable income by seventy-five percent. ERM 207 (March 2013), p. 1. If an SER group does not have sufficient income to meet their total

housing obligation, the application will be denied. ERM 207, p. 1. 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 obligation if heat, electricity and/or water/cooking gas are included. ERM 207, p.1.

In determining Claimant's total net countable income, the Department must consider the gross earnings from employment that Claimant will receive or is expected to receive during the 30 day countable period beginning on the date the SER application is received by the local office. ERM 206 (March 2013), p. 1. Net income from employment must be determined by deducting allowable expenses of employment from the gross amount received. ERM 206, p.4. Additionally, the Department will consider the net amount of unearned income received from RSDI and SSI. ERM 206, p.2. The Department is to verify all non-excluded income, expenses and deductions by sending clients an SER Verification Checklist (VCL) informing them what verifications are required, where to return the verifications and the due date. ERM 206, p. 5.; ERM 103 (March 2013), p. 5. The client must make a reasonable effort to obtain required verifications. If neither the client nor the Department can obtain the verifications despite a reasonable effort, the Department is to use the best available information. ERM 103, p.5.

In this case, on an unverified date, Claimant submitted an application for SER assistance with furnace repair/replacement. On December 4, 2013, the Department sent Claimant a SER Decision Notice informing her that her application had been denied on the basis that her shelter was not affordable according to the SER requirements. (Exhibit 1).

At the hearing, the Department was unable to explain how the income in Claimant's case was calculated or what figures were relied on in making the determination that Claimant's shelter was not affordable. Although the Department testified that Claimant was not employed at the time of her application and only received income from social security benefits, the Department failed to present an affordability test and did not present any testimony regarding how Claimant's total net countable income was determined or what her housing expenses were.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's SER application.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to FIP and MA is DISMISSED and the Department's SER 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. Register Claimant's SER application for assistance with furnace repair/replacement;
2. Reprocess the application to determine Claimant's eligibility for SER as of the application date; and
3. Issue a new SER Decision Notice.



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

Date Signed: March 13, 2014

Date Mailed: March 13, 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

2014-19165/ZB

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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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