

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-29707
Issue No.: 5002
Case No.: [REDACTED]
Hearing Date: April 16, 2014
County: Oakland(3)

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, telephone hearing was held on Wednesday, April 16, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], ES.

ISSUE

Did the Department properly process Claimant's request for State Emergency Relief (SER) assistance with utility/energy 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. On June 14, 2013, Claimant applied for SER assistance with [REDACTED].
2. On July 8, 2013, the Department sent Claimant the SER Decision Notice.
3. On February 11, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request stating that the Department did not follow the Administrative Hearing decision to reinstate SER benefits.

CONCLUSIONS OF LAW

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. Department policies are found in the Department of Human Services State Emergency Relief Manual (ERM).

Additionally, the Claimant applied for SER for benefits for assistance with utility bills of non-heat electricity and heat-natural gas/wood/other. The Claimant was issued a denial notice. She requested a hearing. On September 13, 2013, the Department was ordered by the Administrative Law Judge (ALJ) to reprocess and redetermine eligibility for SER. BAM 210. BEM 500. ERM 401.

On January 31, 2014, the Department Caseworker sent the Claimant a Client Benefit Notice, DHS 1605 that was not in keeping with the ALJ's decision dated [REDACTED] based on ERM 301, p10 and ERB 2013-001, page 1. This ALJ did not have a Verification Checklist, DHS 3503, for the Claimant to provide verification of her co pay amounts in the hearing packet. There was no verification in the hearing packet that the Department followed the ALJ's order of September 13, 2013 to reprocess and redetermine eligibility for SER. If the Claimant did not make her [REDACTED], then she is not eligible for benefits. However, the Department still has to meet the burden that they followed policy in implementing the ALJ's order. In addition, the Department did not appeal the ALJ's decision in a timely manner as is required by policy if they disagreed with the ALJ's decision.

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 in following the ALJ's order when it issued its SER Decision Notice.

DECISION AND ORDER

Accordingly, the Department's SER decision is AFFIRMED 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. Initiate a redetermination of the Claimant's eligibility for SER application dated [REDACTED] and redetermine the Claimant's eligibility for SER by sending out a currently dated Verification Checklist or Notice so that the Claimant will know how much her copay is and when is her due date to make her payment for DHS to pay their part.
2. Provide the Claimant with written notification of the Department's revised eligibility determination.

3. Issue the Claimant any retroactive benefits she/he may be eligible to receive, if any.

Carmen G. Fahie

Carmen G. Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/6/14

Date Mailed: 5/6/14

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

2014-29707/CGF

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

CGF/tb

cc:

