

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

IN THE MATTER OF:

[REDACTED]

Reg. No.:
Issue No.:
Case No.:
Hearing Date:
County:

[REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 [REDACTED] from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Department of Human Services ("Department") Arabic-English Interpreter and [REDACTED] (Claimant). Participants on behalf of the Department of Human Services (Department) included [REDACTED] (Eligibility Specialist/Assistance Payments Worker Specialist).

ISSUE

Did the Department properly deny Claimant's application for State Emergency Relief (SER) seeking 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 [REDACTED], Claimant applied for SER seeking energy services (i.e., heat-natural gas/wood/other) in the amount of \$ [REDACTED].
2. On [REDACTED], the Department mailed Claimant a State Emergency Relief Decision Notice (DHS-1419) which denied Claimant's request for energy services (i.e., heat-natural gas/wood/other) because she "reached the fiscal year service CAP and amount requested is not available for payment of this service."
3. Claimant requested a hearing to dispute the SER decision on [REDACTED].

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 Mich Admin Code, R 400.7001 through R 400.7049. SER prevents serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101.

Effective [REDACTED], the fiscal year cap payment limits for natural gas and wood is \$ [REDACTED] ERM 301, p 10 (10-1-2013). Payments are applied to the cap of the client. Client is defined as the applicant for or recipient of SER and includes all group members. Every individual in the group, who benefits from the payment, including minor children, will have payments applied to their individual cap. The payments applied to the cap follow the individual even if they move from one household to another. . ERM 301, p 11 (10-1-2013).

Here, the Department contends that Claimant's SER application for energy services (heat in the form of natural gas) was properly denied because Claimant had exceeded her \$ [REDACTED] cap for the fiscal year from [REDACTED] through [REDACTED]. Claimant, on the other hand, did not directly respond to the Department's arguments and generally states that she needs to heat her home.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The Department included in the hearing record two previous SER decisions where Claimant was approved for natural gas/wood energy services (heat). The first SER decision approved Claimant's request for heat on [REDACTED] in the amount of \$ [REDACTED] and the second was on [REDACTED] for \$ [REDACTED]. At this point, there is no dispute that Claimant has met the [REDACTED] 2014 fiscal year cap for natural gas/wood. Accordingly, Claimant's SER application for natural gas/wood energy dated [REDACTED] was properly denied as Claimant clearly met her \$ [REDACTED] fiscal year cap.

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 Claimant's [REDACTED] SER application for natural gas/wood.

DECISION AND ORDER

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

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 19, 2014

Date Mailed: May 19, 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.

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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

CAP/las

cc:

