

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-001068
Issue No.: 5001
Case No.: [REDACTED]
Hearing Date: May 15, 2014
County: Kent-District 1

ADMINISTRATIVE LAW JUDGE: Michael S. Newell

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, and 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 May 15, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Attorney. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearings Facilitator; [REDACTED], Eligibility Specialist; [REDACTED] Supervisor; [REDACTED], Assistant Attorney General.

ISSUE

Does the Administrative Law Judge (ALJ) have jurisdiction to address Claimant's concerns?

Did the Department properly decline to pay on Claimant's home repairs?

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 or around October 24, 2013, Claimant applied for SER assistance for pest control.
2. On November 1, 2013, the Department notified Claimant that it would pay \$ [REDACTED] for the \$ [REDACTED] in services if Claimant paid her copay portion of \$ [REDACTED] by November 22, 2013 and so notified Claimant by November 22, 2013. (Exhibit 1).
3. The Notice further provided as follows:

You must provide the original bill for Home Repairs – Non Energy by 11/2/13 or payment may not be made

If verification of your payment is not returned by November 22, 2013, the DHS payment will not be made and you will need to reapply.

4. Claimant admittedly did not read the entire notice.
5. On November 22, 2013 Claimant paid [REDACTED] \$ [REDACTED] toward services.
6. On November 25, 2013, [REDACTED] performed the services.
7. Claimant did not provide a copy of her receipt to the Department until March 19, 2013.
8. Claimant assumed [REDACTED] would provide the verification to the Department.
9. No one from [REDACTED] told Claimant this, nor did Claimant ask [REDACTED] to do so before November 22, 2013.
10. Claimant provided notice of her payment on March 19, 2013.
11. Claimant requested hearing on April 7, 2014.

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 Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, Claimant argued that it was not challenging the November 1, 2013 decision and thus, the November 1, 2013 decision did not affect jurisdiction.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department

action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

Whether the ALJ has jurisdiction is questionable. However, this issue is not material to the outcome because whether the ALJ has jurisdiction or not, Claimant's request must fail. Claimant did not challenge the decision that verification must be provided to the Department by the due date or that no payment would be made. Thus, this decision that Claimant must provide verification by the due date or be denied is binding. Further, ERM 208 pp 4-5 provides that verification of copayment must be received within 30 days of the application.

Claimant did not provide verification by the due date nor read the notice fully. This is undisputed. The decision notice makes clear that Claimant herself is responsible to provide the verification by the due date or payment would not be made. (See Exhibit 1).

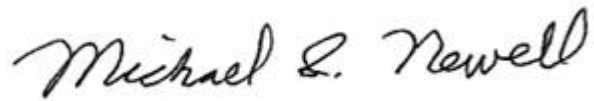
Claimant testified that [REDACTED] informed her that it sent verification of payment to the Department. This allegation is not only hearsay, but the allegation is not material even if true. The alleged verification, according to Claimant, was provided well after the due date.

Claimant alleged that she did not make payment until November 22, 2013 due to circumstances beyond her control. As previously stated, Claimant is bound by the requirements in the November 1, 2013 decision because this decision was not timely appealed, and Claimant admittedly is not challenging the decision. The implication that Claimant should have been given more time to provide the verification is a challenge to the November 1, 2013 decision, which is binding. Moreover, the problem is more precisely that Claimant did not read the notice because if she had, she could have considered arrangements to provide the notice by the due date.

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 request to pay the bill at issue.

DECISION AND ORDER

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



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/5/2014**

Date Mailed: **6/5/2014**

MSN/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

