

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

IN THE MATTER OF:



Reg. No.: 2014-9656
Issue No(s): 3000;5001
Case No.: [REDACTED]
Hearing Date: April 14, 2014
County: SSPC -East

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 three way telephone hearing was held on April 14, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor and [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP) 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. On May 7, 2013, Claimant submitted an application for FAP benefits. (Exhibit 1, p.4)
2. On June 11, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP application had been denied on the basis that she failed to return verification of her bank account. (Exhibit 1, pp.5-9)
3. On October 22, 2013, Claimant submitted an application for SER assistance with electricity and cooking gas. (Exhibit 1, p.10)

4. On October 22, 2013, the Department sent Claimant a SER Decision Notice denying the application on the basis that it was not submitted during the crisis season. (Exhibit 1, pp.11-15)
5. On October 29, 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).

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

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 (February 2013), p. 4, 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.]

In the present case, on June 11, 2013, the Department sent Claimant a Notice of Case Action advising Claimant of its decision to deny her FAP application. (Exhibit 1, pp.5-9). Claimant did not file a request for hearing to contest the Department's action until

October 29, 2013. (Exhibit 1, p.15). Claimant's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p. 4. Claimant was informed that she was entitled to submit a new application for FAP benefits and have her eligibility determined.

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.

Additionally, low-income households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP). For energy related emergencies, the SER crisis season runs from November 1 through May 31. Requests for those services will be denied June 1 through October 31. ERM 301 (October 2013), p. 1.

In this case, Claimant submitted an application for SER assistance with her electric and cooking gas bill on October 22, 2013. (Exhibit 1,p.10). On October 22, 2013, the Department sent Claimant a SER Decision Notice informing her that the application was denied on the basis that it was not submitted during the crisis season, which is November 1 through May 31. (Exhibit 1, pp.11-15). Because electricity is considered an energy related service and Claimant confirmed that her application was submitted on October 22, 2013, the Department acted in accordance with Department policy when it issued its SER Decision Notice denying Claimant's application on the basis that it was not submitted during the crisis season. ERM 301.

SER helps to restore or prevent shut off of utility services, such as cooking gas. ERM 302 (October 2013), p.1. Contrary to the Department's testimony at the hearing however, the policy governing the submission of applications during the crisis season does not apply to utility services. A review of the SER Decision Notice establishes that the Department denied Claimant's request for SER assistance with her utility service of cooking gas on the basis that her income/asset copayment is equal to or greater than then amount needed to resolve the emergency, and not on the basis that her application was not submitted during the crisis season. (Exhibit 1, p.12).

At application, the Department is to complete an SER budget for each request. The Department will calculate payment maximums, required payments, income and asset copayment, and client contributions based on the information provided to determine eligibility for SER. ERM 103 (March 2013), p. 3. At the hearing, the Department failed to identify the amount of the income/asset copayment and did not present a budget to establish how the copayment was calculated or what income amounts were relied on in making that determination.


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 issued its SER Decision Notice denying Claimant's application for assistance with utility services/cooking gas based on the income/asset copayment being equal to or greater than the amount needed to resolve the emergency.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to FAP is DISMISSED, the Department's SER decision with respect to energy services/electricity is AFFIRMED and the Department's SER decision with respect to utility services/cooking gas 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 and process Claimant's October 22, 2013 SER application for assistance with utility services/cooking gas to determine Claimant's eligibility for SER assistance as of the application date; and
2. Issue a new SER Decision Notice informing Claimant of its decision.



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

Date Signed: April 18, 2014

Date Mailed: April 18, 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

ZB/tlf

cc:

