

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-34683
Issue No(s): 5001
Case No.: [REDACTED]
Hearing Date: June 24, 2014
County: Kent County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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, an in-person hearing was held on June 24, 2014, from Grand Rapids, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Hearing Facilitator, [REDACTED], Eligibility Specialist, and [REDACTED] Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Claimant's State Emergency Relief (SER) application?

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 March 1, 2014, Claimant's water heater broke.
2. On March 4, 2014, Claimant had the water heater replaced as well as fittings repaired, and Claimant paid for the work with a credit card.
3. On March 24, 2014, Claimant applied for State Emergency Relief for home repairs, hot water tank, pipes, and fittings.
4. On April 2, 2014, Claimant's SER application was denied because the emergency had already been resolved.
5. On April 9, 2014, Claimant filed a request for hearing contesting the Department's determination.

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.

SER assists with home repairs to correct unsafe conditions and restore essential services. Non-energy related home repairs include hot water heater and plumbing. Authorization for payment is only made if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. The repair(s) must restore the home to a safe, livable condition. **SER does not pay for improvements or nonessential repairs.** ERM 304 (emphasis in original).

Certain conditions must be met before SER can be issued to help individuals and families whose health and safety are threatened: prior written or oral approval must be given by an authorized department staff person before SER issuance; **do not issue SER to reimburse expenses incurred or paid without prior department approval;** the SER payment must resolve the emergency; the group must meet all applicable policy requirements for the SER service. ERM 103 (emphasis in original).

However, the ERM policy also recognizes that immediate action may be necessary to prevent harm to SER group members when an emergency arises after hours or on weekends. The prior approval requirement may be waived in any case when the emergency occurred while department offices were closed. The first-line manager may approve a waiver of the prior approval requirement in non-burial cases, provided an SER application is filed within five business days from the date the emergency began. ERM 103.

In this case, the Claimant asserts her water heater stopped working on March 1, 2014, which was a Saturday. Claimant noted that the pipes and fittings were also broken and water was leaking so the water to her home had to be completely shut off. Thus, Claimant had an emergency on a weekend that affected her health and safety. Claimant made an appointment for the repairs, but the company could not come out until Tuesday March 4, 2014. (Exhibit 1)

On Monday March 3, 2014 at 3:43 pm, Claimant emailed DHS "My water heater died last week. Do you know of any organization that could help me?" The Eligibility Specialist emailed Claimant back on March 4, 2014 at 7:08 AM with the organization he typically refers clients to and indicated Claimant should let him know if she has any additional questions. (Exhibit 2) It is noted that nothing in Claimant's email indicates

the water had to be shut off to her home and further that Claimant specifically asked for any organizations that could help her.

On Thursday March 6, 2014 at 3:36 PM, Claimant emailed the Department asking for assistance applying for SER. On Friday March 7, 2014 at 8:18 AM the Eligibility Specialist let Claimant know she could apply at the local office, a paper application could be sent to her, or Claimant could complete an online application at the provided website address. The Eligibility Specialist also advised Claimant an in person interview would have to be completed within 10 days of the application submission. The Eligibility Specialist asked Claimant to let him know her plan or if she had any questions. (Exhibit A, page 6)

On Friday March 7, 2014 at 4:16 pm, Claimant responded, in part explaining in detail what had happened with her water heater and plumbing. Claimant also raised several other issues. Toward the end of her communication, Claimant requested that the SER form just be mailed to her for now. Claimant then asked if she might be able to complete the interview when she comes in to fill out the application. Claimant also stated she did not think she could complete the online application now either. (Exhibit A, pages 5-6).

Claimant did not submit an SER application until March 24, 2014. (Exhibit A, pages 10-12) Claimant testified she waited so long to file the application because she knew she would need to have proofs within 10 days of her application. However, a review of the email correspondence does not support Claimant's testimony that she had asked what proof would be needed and the Department failed to respond.

The above cited ERM 103 policy does recognize that when an emergency arises after hours or on weekends immediate action may be necessary to prevent harm to SER group members. Thus, the prior approval requirement may be waived by the first-line manager in any case when the emergency occurred while department offices were closed. However, the ERM 103 policy also specifies that this waiver can only apply when the SER application is filed within five business days from the date the emergency began. Claimant's emergency began on March 1, 2014, but she did not file a SER application until March 24, 2014, well beyond the allowable five business day timeframe. Accordingly, the waiver of prior approval could not be considered for this SER application. Further, by that time, the needed repairs for Claimant's water heater and plumbing had already been completed. Therefore, the denial of Claimant's March 24, 2014 SER application because the issue had already been resolved was in accordance with Department policy.

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 SER application.

Request for Reimbursement for Transportation for the Hearing

On the record during the June 24, 2014 hearing proceedings, the Claimant requested reimbursement of transportation costs for the hearing. The Claimant provided her

name, confirmed her address and reported mileage of [REDACTED] miles each way. This was in accordance with the BAM 600 policy that states:

Clients may request reimbursement of transportation and child care costs at the hearing. Clients must make the request on the hearing record and provide the ALJ the following information:

- Their name and address.
- For **transportation expense reimbursement**, the number of miles traveled round-trip for the hearing.
- For child **care expense reimbursement**, the provider type (for example, child care center) and a signed and dated receipt from the provider showing the full names and ages of all children for whom care was provided.

MAHS will issue the reimbursements when the total combined cost exceeds \$3.

Note: Reimbursements are computed using the least costly travel rate in the AHN 1115-1 and child care costs in RFT 270.

The Michigan Administrative Hearing System (MAHS) is processing the Claimant's request for transportation costs in accordance with the BAM 600 policy.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 17, 2014

Date Mailed: July 17, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

CL/hj

cc:

