

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 14-006880
Issue No.: 3000; 5001
Case No.: ██████████
Hearing Date: August 11, 2014
County: MACOMB-DISTRICT (12)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 11, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Hearings Facilitator.

ISSUE

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

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 28, 2014, Claimant applied for SER assistance for heat in the amount of \$240.19. See Exhibit 2, pp. 2-6.
2. On May 28, 2014, the Department sent Claimant an SER Decision Notice, which denied Claimant's heat request in the amount of \$240.19 because her shortfall amount (unmet required payments) is equal to or greater than the amount needed to resolve the emergency. See Exhibit 1, p. 2.
3. On June 10, 2014, the Department sent Claimant a Quick Note, which restated that Claimant's SER application was denied. See Exhibit 1, p. 3.

4. On July 11, 2014, Claimant filed a hearing request, protesting her Food Assistance Program (FAP) closure and SER denial. See Exhibit 1, pp. 13-14.

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 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

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.

FAP benefits

On July 11, 2014, Claimant filed a hearing request, protesting her FAP case closure. See Exhibit 1, pp. 13-14. Shortly after commencement of the hearing, it was discovered that Claimant's FAP benefits were reinstated and there was no lapse of coverage. See Exhibit 1, p. 1. As such, Claimant was no longer disputing her FAP benefits. Thus, Claimant's FAP hearing request is DISMISSED.

SER application

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (October 2013), p. 1. When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301, p. 1.

Additionally, the Department determines if the Claimant had a shortfall (unmet required payments) for the past six months. If an application is made for shelter, heat, electricity or utilities, a determination of required payments must be made. ERM 208 (October 2013), p. 4. Required payments are determined based on the group size, the group's income and the obligation to pay for the service that existed during each month of the six months prior to application. ERM 208, p. 4. If the client failed without good cause to make required payments, a short fall amount is determined. ERM 208, p. 4. The client

must pay the shortfall amount toward the cost of resolving the emergency. ERM 208, p. 4. Verification that the shortfall has been paid must be received before any SER payment can be made. ERM 208, p. 4.

In this case, on May 28, 2014, Claimant applied for SER assistance for heat in the amount of \$240.19. See Exhibit 2, pp. 2-6. On May 28, 2014, the Department sent Claimant an SER Decision Notice, which denied Claimant's heat request in the amount of \$240.19 because her shortfall amount (unmet required payments) is equal to or greater than the amount needed to resolve the emergency. See Exhibit 1, p. 2. On June 10, 2014, the Department sent Claimant a Quick Note, which restated that Claimant's SER application was denied. See Exhibit 1, p. 3.

At the hearing, the Department presented an SER Unmet Need budget. See Exhibit 2, p. 1. The Department calculated Claimant's final shortfall amount to be \$321.50. See Exhibit 2, p. 1. The Department determined that Claimant did not meet any of the good cause exceptions. However, Claimant testified that she did have good cause reasons. See ERM 204 (March 2013), p. 1.

Nevertheless, to be eligible for energy service assistance, an SER group must make required payments toward their energy service bills *unless the case is categorically eligible*. ERM 301, pp. 5-6 (emphasis added).

In addition to the eligibility criteria listed in ERM 301, cases must meet the following requirements in order to be determined categorically eligible:

- All SER group members must be active on the applicant's FIP, FAP or SSI case.
- There must be no disqualified members on the case, except for ineligible aliens.
- The name on the energy account bill must match the head of household name or the head of household's spouse's name. It is not sufficient to be in the name of a living-together partner. The spouse must be active on the head of household's case.
- The case head of household must not be an ineligible or minor head of household. Supplemental Security Income (SSI) cases for minor children are not considered categorically eligible.
- The case must not be overdue for redetermination.
- There are no required payment criteria.
- Criteria in ERM 304, Home Ownership, must be met for furnace repairs.

ERM 301, p. 5.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's SER assistance for heat. The evidence failed to present if the Claimant was

categorically eligible because if Claimant was, then she would not need to make the required payments towards her energy service bills. See ERM 301, pp. 5-6. Thus, the Department will re-register Claimant's SER application and determine if she is categorically eligible based on the circumstances that existed at the time of application and in accordance with Department policy. See ERM 301, pp. 4-5.

DECISION AND ORDER


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 did not act in accordance with Department policy when it improperly denied the SER assistance for heat (SER Decision Notice dated May 28, 2014).

Accordingly, the Department's SER decision 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. Initiate re-registration and processing of Claimant's SER application with heat dated May 28, 2014, in accordance with Department policy and as the circumstances existed at the time of application;
2. Begin issuing supplements to Claimant for any SER benefits she was eligible to receive but did not from date of application; and
3. Begin notifying Claimant in writing of its SER decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's FAP hearing request (dated July 11, 2014) is **DISMISSED**.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/15/2014**

Date Mailed: **8/15/2014**

EJF/cl

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:

[REDACTED]