

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-010420
Issue No.: 2002, 3002, 5006
Case No.: [REDACTED]
Hearing Date: September 24, 2014
County: VAN BUREN

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 September 24, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant, his [REDACTED], and his fiancée's representative payee, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Manager [REDACTED], and Eligibility Specialist [REDACTED].

ISSUE

Did the Department properly close Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) benefits, and deny his application for State Emergency Relief (SER)?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an on-going FAP and MA recipient.
2. On June 16, 2014, the Department mailed a Redetermination (Exhibit 1 Page 3) to Claimant, scheduling a telephone interview for July 8, 2014.
3. The Department did not receive Claimant's response to the Redetermination, and he did not participate in the telephone interview, so on July 8, 2014, the Department mailed a Notice of Missed Interview (Exhibit 1 Page 9).
4. On July 30, 2014, the Department received an application for SER, requesting help with utility expenses, particularly a water bill of [REDACTED] (Exhibit 1 Page 13), an

electric bill of [REDACTED] (Exhibit 1 Page 14), and a gas bill of [REDACTED] (Exhibit 1 Page 15). The Department also received copies of Claimant's bank statements.

5. On August 5, 2014, the Department calculated that Claimant had a need of [REDACTED] to avoid having utilities disconnected (Exhibit 1 Pages 22-23). It also calculated that he had a co-payment of [REDACTED] (Exhibit 1 Pages 24-25) based upon the group's income.
6. On August 5, 2014, the Department mailed a Health Care Coverage Determination Notice (Exhibit 1 Pages 28-29) closing Claimant's MA and FAP effective September 1, 2014, because he did not timely return the verification. It also mailed a SER Decision Notice (Exhibit 1 Page 30-31) denying the application for SER because his co-payment is equal to or greater than the amount needed to resolve the emergency regarding his water and sewer, and because his application for help with energy services was not made during the crisis season.
7. The Department received Claimant's hearing request on August 21, 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 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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

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.

Department policy concerning SER for energy services is found in ERM 301 (10/1/13), 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. The amount of the payment is the minimum necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. Current bills that are not subject to shutoff should not be included in the amount needed.”

More direction is found at page 5:

To be eligible for energy service assistance, an SER group must make required payments toward their energy service. The required payment amounts are based on the group size and service (heat or electric); see the Table of Monthly Energy Required Payments in this item.

The energy required payment period is the six-month period prior to the month the SER group applies for assistance, regardless of previous approvals. It applies even if the client has never requested or received SER energy services in the past six months. For example, if the group applies for heating assistance on January 13, the required payment period is July through December.

Energy required payments are met if the amounts paid by the group for heating fuel and/or electricity equal or exceed the table amounts for the required payment period.

Required payments must be met for each month the SER group has an obligation to pay for the service. Failure to make required payments may result in a shortfall.

When Claimant applied on July 28, 2014, ERM 301 (10/1/13) was in effect. At page 1 of that manual it states: “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.” Policy dictates that any request received between June 1 and October 31 will be denied. Claimant’s application was received within the crisis season and, therefore, any assistance with energy-related emergencies had to be denied.

ERM 302 (10/1/13) addresses utility services. At page 1 we find:

The following are covered utility services:

- Payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. The payment must restore or continue service for at least 30 days at the current residence. However, payments for current charges are not allowed.
- A deposit (including membership fees and lease/rental payments for an on-site storage tank) required by the utility provider to begin, maintain, or

restore one of the following services currently or previously the responsibility of the SER group: water, sewer and cooking fuel.

- Fees for connection, reconnection, or hookup of utility services.

The bill does not have to be in the client's name but it must be connected to the group's current address. If the bill, including old or transferred balances, must be paid to start or maintain service at the current or new address, payment may be authorized up to the fiscal year cap as long as the payment resolves the emergency.

More direction is found at page 2:

The SER group has to pay the minimum monthly amounts for water, sewer and/or cooking gas for the last six months. See the Payment Limits chart below. The required payment period is always the six-month period prior to the month the SER group applies. If required payments of the requested service were not met, determine if good cause for non-payment exists. Unmet required payments are also referred to as a shortfall. See ERM 204, Client Caused Emergencies and ERM 103, Application Procedures.

SER cannot be used to make required payments.

Shortfall payments cannot be waived.

For a group size of 2, the Claimant and his fiancée had to make monthly payments of at least [REDACTED] toward the water bill for each of the six preceding months. They did not make any payments in January, February, or June of 2014. "Good cause" is defined in ERM 204 (3/1/13).

Good cause for failure to meet obligations for shelter, energy, or utilities exists if:

The SER group's net countable income from all sources during each month the group failed to pay their obligations was less than the amount shown for the SER group size in the good cause table in this item.

With a group size of 2, Claimant and his fiancée had to have less than [REDACTED] in net countable income from all sources during each of the preceding six months. They had countable income of [REDACTED] in each of the months and thus did not show "good cause" for not paying their utility bills. The Department acted correctly in denying Claimant's application for SER.

"Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews." BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or**

The time period given has elapsed and the client has **not** made a reasonable effort to provide it.


The issue is whether the Claimant provided timely verification in response to the request. The evidence is persuasive that the Department mailed to Redetermination to Claimant. It is also persuasive that Claimant did not provide timely verification.

Because Claimant has not produced evidence to show that he responded timely and fully to the Redetermination, the undersigned is persuaded that Claimant did not comply timely, and did not make a reasonable effort to comply timely.

The Administrative Law Judge, based upon 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 closed Claimant's FAP and MA.

DECISION AND ORDER

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


Darryl Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/26/2014**

Date Mailed: **9/26/2014**

DJ/jaf

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:

