

**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.: 14-004948
Issue No.: 5001
Case No.: ██████████
Hearing Date: September 22, 2014
County: WAYNE (57)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist, and ██████████, an Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Claimant's applications for State Emergency Relief (SER) benefits relating to energy 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 March 28, 2014, Claimant applied for SER benefits relating to repairs to her furnace.
2. On April 16, 2014, the Department denied Claimant's application for SER benefits indicating that her income exceeded the allowable limits.
3. On June 9, 2014, Claimant again applied for SER benefits relating to repairs to her furnace.
4. On June 10, 2014, the Department denied Claimant's application for SER benefits indicating that Claimant failed to submit the application for energy services during the crisis season.
5. On June 12, 2014, Claimant filed a Request for Hearing 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).

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.

February 26, 2014 SER application

On February 26, 2014, Claimant applied for SER benefits relating to a furnace repair. On February 27, 2014, the Department denied Claimant's application for SER benefits because she failed to submit estimates. Claimant did not request a hearing until June 12, 2014. Department policy states that 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 policy 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.] (BAM) 600 (July 2013), p. 5,

Accordingly, because more than 90 days have elapsed since the date of denial, the undersigned does not have jurisdiction over that denial and thus it will not be further addressed in this decision.

Claimant's March 28, 2014 SER application

Claimant applied for SER benefits relating to her furnace repair. On March 28, 2014, Claimant submitted estimates for the furnace repair together with proof of income. The Department testified that Claimant worked 30 hours per week and earned \$12.39 per hour. Department policy holds that for a group to be eligible for energy services, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period cannot exceed the standard for SER energy/LIHEAP services for the number of group members. ERM 208 (October 2013), p. 1. Further, the maximum a client with a group size of one can earn and be approved for energy services is \$1,436.00. ERM 208, p. 6. Based on Claimant's hourly pay and hours worked, her gross pay would be \$1,486.00 per month. However, the Department failed to provide a budget or any information as to whether Claimant's net pay would remain at \$1,486.00 or be reduced by deductions allowed under policy, potentially allowing for approval. Therefore, it is found that the Department failed to establish that Claimant's income exceeded the allowable income limit.

June 9, 2014 SER application

On June 9, 2014, Claimant again applied for SER benefits for furnace repairs. The Department testified that Claimant's SER application was denied because the application was not submitted during the crisis season. 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. The Department also testified that Claimant's June application was denied because Claimant's home was in jeopardy of loss due to tax arrearages. Department policy does not allow for the approval of an SER application for home repairs if the client's home is in jeopardy of loss, which includes house payment or property tax arrearage, unless a workable plan exists for paying the arrearage. ERM 304 (October 2013), p. 4. Claimant disputed the contention that she was in jeopardy of losing her home. However, since the application was not submitted during the crisis period, the Department properly denied Claimant's June 9, 2014 application for SER benefits.

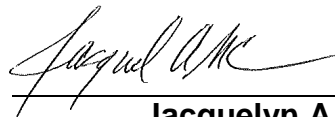
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with policy when it denied Claimant's March 28, 2014 application for SER benefits as it failed to establish that Claimant exceeded the income limits. However, it is found that the Department did act in accordance with policy when it denied Claimant's June 9, 2014 application for energy services which was filed outside the crisis season period.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** in part and **REVERSED** in part.

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. Reregister and reprocess Claimant's March 28, 2014 application for SER benefits; and
2. Notify Claimant in writing of its decision with a SER Decision Notice.



Jacquelyn A. McClinton
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/14/2014**

Date Mailed: **10/14/2014**

JAM / 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]
[REDACTED]
[REDACTED]
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