

**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.: 14-005684
Issue No.: 5001
Case No.: ██████████
Hearing Date: October 1, 2014
County: WAYNE-DISTRICT 35

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 October 1, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Claimant’s applications for State Emergency Relief (SER) assistance?

FINDINGS OF FACT

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

1. In March 2014, Claimant submitted an application for SER assistance with her heat and electric bills.
2. On March 11, 2014, the Department sent Claimant a SER Decision Notice informing her that she was approved for SER assistance but that she would be required to make a payment towards the amount of assistance that she had requested, prior to the Department paying its approved amount. (Exhibit 2)
3. On or around April 15, 2014, Claimant submitted a second application for SER assistance with her heat and electric bills.

4. On April 16, 2014, the Department sent Claimant a SER Decision Notice informing her that she was approved for SER assistance but that she would be required to make a payment towards the amount of assistance that she requested, prior to the Department paying its approved amount. (Exhibit 3)
5. On or around June 12, 2014, Claimant submitted a third application for SER assistance with her heat and electric bills.
6. On June 23, 2014, the Department sent Claimant a SER Decision Notice informing her that her application had been denied on the basis that it was not submitted within the crisis season. (Exhibit 1)
7. On June 25, 2014, 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).

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.

Claimant submitted a hearing request disputing the Department's actions with respect to her SER benefits. It was established at the hearing that Claimant submitted three separate applications for SER assistance with her heat and electric bills, each of which will be addressed individually below.

March 2014 SER Application

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. Mich Admin Code, R 400.904(1). Moreover, the Department

of Human Services Bridges Administrative Manual (BAM) 600 (May 2014), pp6-7, 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 an unverified date in March 2014, Claimant submitted an application for SER assistance. On March 11, 2014, the Department sent Claimant a SER Decision Notice advising Claimant of its decision concerning the application. (Exhibit 2). Claimant did not file a request for hearing to contest the Department's action until June 25, 2014. Claimant's hearing request was not timely filed within ninety days of the March 11, 2014 SER Decision Notice and is, therefore, **DISMISSED** for lack of jurisdiction.

April 2014 SER Application

Eligible households may receive assistance with heat and electricity costs under the energy services program. ERM 301 (October 2013), p. 1. The Department can award payments toward outstanding heat and electricity bills up to the fiscal year cap if it will resolve the emergency. Effective October 1, 2013, the fiscal year cap for both heat and electricity assistance is \$450.00. ERM 301, p.10. Department policy provides that if the SER group meets all eligibility criteria but has an income or asset copayment, shortfall, and/or contribution, verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made and the client must reapply. ERM 103 (October 2013), p. 4; ERM 401 (October 2013), p. 2.

In this case, the Department agreed in the April 16, 2014, SER Decision Notice to pay \$450 to Claimant's heat provider and \$450 to Claimant's electricity provider, towards the costs of her outstanding heat and electric bills. The SER Decision Notice informed Claimant that she had until May 14, 2014, to provide verification that she made a payment of \$1286.05 towards her heat request and \$566.45 towards her electricity request, or no Department payment would be made.

At the hearing, the Department testified that it did not pay the approved \$450 towards each of Claimant's outstanding heat and electric bills because it did not receive verification that Claimant had made her required payments. Claimant testified that on April 24, 2014, she procured a commitment from [REDACTED] that it would pay DTE Energy \$2,500 towards Claimant's outstanding bills. Claimant provided a copy of the assistance voucher from [REDACTED] for review at the hearing, and credibly testified that after procuring the commitment, she was informed by a representative of [REDACTED] that someone from the organization would submit a copy of the assistance voucher to the Department and contact DTE to arrange for the payment. (Exhibit A)

Policy provides that the Department may not issue payment until the client provides proof that their payment has been made, however, when another agency is making the payment, policy requires “proof that payment **will be made.**” ERM 103, p. 4 (emphasis added); see also ERM 103, p. 4. In this case, a commitment was made by [REDACTED] [REDACTED] within the authorization period, which was sufficient to verify Claimant’s payment required under the April 16, 2014 SER Decision Notice, and to trigger the Department’s payment. It is further noted that, for energy services (which includes heat and electric), any additional payment made by another agency to reduce the balance on the client’s bill to zero should not reduce the SER payment. ERM 103, p. 4; ERM 301, p. 1.

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 failed to process its payment of SER assistance to Claimant’s heat and electricity provider, towards her outstanding energy bill.

June 2014 SER Application

For energy related emergencies, the SER crisis season runs from November 1 through May 31. Requests for energy related services such as heat and electric will be denied if made between June 1 through October 31. ERM 301, p. 1.

In this case, Claimant testified that when the Department did not make its previously approved payment towards her outstanding heat and electric bills, she submitted a third application for SER assistance with heat and electricity on or around June 12, 2014. On June 23, 2014, 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)

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 because Claimant’s application for SER assistance was submitted in June 2014, 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.

DECISION AND ORDER

Accordingly, the hearing request with respect to the March 2014 SER application is DISMISSED, the Department’s decision is AFFIRMED IN PART with respect to the June 2014 SER application and REVERSED IN PART with respect to April 2014 SER application.

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. Process the April 16, 2014, SER Decision Notice; and
2. Authorize payments to Claimant's provider.



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

Date Signed: **10/15/2014**

Date Mailed: **10/15/2014**

ZB / 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]
[REDACTED]
[REDACTED]
[REDACTED]