

**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.: 14-007691
Issue No.: 5001
Case No.: ██████████
Hearing Date: October 9, 2014
County: Wayne (17-Greenfield/Joy)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 October 9, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████
████████████████████

ISSUES

1. Did the Department properly process its May 16, 2014, State Emergency Relief (SER) Decision Notice for electric and heat assistance?
2. Did the Department properly deny Claimant's May 9, 2014 SER application for assistance with property taxes, non-energy home repairs, cooking gas and water or sewage?
3. Did the Department properly deny Claimant's June 18, 2014, application for 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. On May 9, 2014, Claimant applied for SER assistance with heat and electrical service and for property taxes, non-energy home repair, cooking gas, and water or sewage.

2. On May 15, 2014, the Department sent Claimant a SER Decision Notice notifying her that (i) it would pay her gas and electric provider \$450 towards her electrical bill upon verification that she paid \$38.87 by June 7, 2014, and \$140.35 towards her gas bill and (ii) her application for assistance with property taxes, non-energy home repairs, cooking gas, and water or sewage was denied.
3. On May 29, 2014, Claimant paid DTE, her energy service provider, \$39.
4. On June 18, 2014, Claimant applied for SER assistance with property taxes, furnace repair/replacement, water heater repair/replacement, home repair (for pipes, faucet and toilet), and gas and electric.
5. On June 20, 2014, the Department sent Claimant a SER Decision Notice denying the June 18, 2014, application.
6. On July 10, 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.

As a preliminary matter, it is noted that Claimant requested a hearing on July 10, 2014, concerning the Department's denial of her SER applications for assistance. On the record, Claimant indicated that she had filed multiple SER applications that the Department denied. A client's request for hearing is timely only if it is filed within 90 days of the date the Department issues a notice of case action advising a client of a negative action. ERM 404 (March 2013), p. 1; BAM 600 (July 2014), p. 6. Because Claimant filed a request for hearing on July 10, 2014, the Department was asked to identify all SER decision notices issued by the Department within the 90 days before July 10, 2014, in response to Claimant's SER applications. The Department testified that SER Decision Notices were issued on (i) May 15, 2014, in response to Claimant's May 9, 2014, SER application for assistance with heat and electric and (ii) on June 20, 2014, in response to Claimant's June 18, 2014, SER application for assistance with property taxes, furnace repair/replacement, water heater repair/replacement, home repairs for pipes, faucet and toilet, and electricity and gas. Both applications are reviewed in this Hearing Decision.

May 15, 2014, SER Decision Notice

In the May 15, 2014, SER Decision Notice in response to Claimant's May 9, 2014 application, the Department agreed it would pay Claimant's gas and electric provider (i) \$450 towards her electrical bill upon verification that she paid \$38.87 by June 7, 2014 and (ii) \$140.35 towards her gas bill. The Department testified that it paid DTE, Claimant's energy services provider, \$140.35 towards Claimant's gas bill but did not pay the \$450 towards Claimant's electrical bill because Claimant failed to timely verify that she paid her \$38.87 copay.

When a client is notified in a SER Decision Notice that she has a copayment amount, the client must provide verification of her payment by the last day of the 30-day eligibility period, which period begins on the date the SER application is submitted to the Department. ERM 208 (October 2013), pp. 2, 3. The Department does not issue any SER payment until verification of the client's copayment is received in the local office within the 30-day eligibility period. ERM 208, p. 4; ERM 301 (October 2013), p. 10.

In this case, the May 15, 2014, SER Decision Notice advised Claimant that she had to make her copayment no later than June 7, 2014, in order to trigger the Department's obligation to pay its \$450 payment. At the hearing, Claimant contended that she had timely made her copayment and credibly testified that she had advised the Department of her payment prior to June 7, 2014. The Department produced an online DTE payment history showing that a cash payment of \$39 was made on Claimant's account on May 29, 2014. Claimant also provided a DTE bill showing that DTE had received payment of \$39 on May 29, 2014. Because Claimant paid her required copayment to DTE prior to the June 7, 2014, end of the SER eligibility period and notified the Department, the Department did not act in accordance with Department policy when it failed to process the SER Decision Notice and issue its \$450 payment to DTE.

A review of the May 15, 2014 SER Decision Notice shows that the Department denied Claimant's SER application for assistance with property taxes, non-energy home repairs, cooking gas, and water and sewage. At the hearing, the Department did not present any evidence concerning Claimant's application for these services or why those services were denied. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied SER assistance for those requested services.

June 20, 2014, SER Decision Notice

On June 18, 2014, Claimant filed an SER application for assistance with furnace repair/replacement, water heater repair/replacement, property taxes, heat and electric, and home repair for pipes, faucet and toilet.

Property Taxes, Furnace, Water Heater and Other Home Repairs

SER assistance is available to home owners for (i) home ownership services assistance, which includes payment for property taxes and fees to save a home threatened with loss due to tax foreclosure or sale; (ii) energy-related home repairs,

which, at the time of Claimant's June 18, 2014, SER application, was limited to repair or replacement of a nonfunctioning furnace; and (iii) non-energy-related home repairs, which include all home repairs for client-owned housing except furnace repair or replacement, if the repair is essential to remove a direct threat to health or safety or is required by law. ERM 304, pp. 1-3. Although the Department contended at the hearing that SER assistance is not available for household repairs for pipes, faucet and toilet, Department policy expressly provides for such assistance if the remaining eligibility conditions are satisfied.

In this case, the June 20, 2014, SER Decision Notice denied Claimant's request for home ownership assistance because her home could not be brought to livable condition within the available SER home repair limit and denied her request for energy-related and non-energy-related home repairs because the need for requested services did not meet program requirements.

The lifetime maximum for energy-related home repairs is \$4,000. ERM 304, p. 2. The lifetime maximum for non-energy-related home repairs is \$1,500 per SER group. ERM 304 (October 2013), p. 3. The lifetime maximum for home ownership services is \$2,000. ERM 304, p. 2. For home ownership assistance relating to tax foreclosure assistance, the total amount of tax arrearage for **all** years (meaning the total for every year combined, not just for the tax years in which assistance is being requested) may not exceed \$2,000. ERM 304, pp. 4-5. As a condition of SER assistance eligibility, the client must establish that (i) the amount for services does not exceed the home ownership services maximum of \$2,000, the energy-related home repair maximum of \$4,000 or the non-energy-related home repair maximum of \$1,500, and (ii) the issuance amount will resolve the emergency. ERM 304, p. 5.

In this case, the SER Decision Notice shows that Claimant had requested assistance of \$5,000 for property taxes, which is a home ownership service, \$5,000 for furnace repair, which is an energy-related repair, and \$2,000 for the water heater and other repairs. Because Claimant's requested \$5,000 for property tax assistance exceeds the \$2,000 limit for such assistance, the requested \$5,000 for furnace repair/replacement exceeds the \$4,000 limit for such assistance, and the \$2,000 for the water heater and remaining repairs exceeds the \$1,500 limit for such assistance, the Department acted in accordance with Department policy when it denied the SER application for assistance with property taxes, furnace repair/replacement and home repairs.

It is further noted that the Department also testified that Claimant had failed to meet program requirements for the furnace repair/replacement and non-energy-related repairs (including the water heater) because she did not provide estimates of the cost of services. A client must provide at least one estimate of the repair cost. ERM 304, p. 5. Claimant admitted on the record that she had not provided a current estimate for repairs with her application. Claimant also agreed at the hearing that the property tax issue had been "taken care of." Because Claimant has resolved the tax emergency, SER

assistance is no longer available for that service. ERM 101 (March 2013), p. 1; ERM 103 (October 2013), p. 3.

Gas and Electric

In her June 18, 2014, SER application, Claimant also requested assistance for payment of her gas and electric bill. When a client's heat or electric service for her current residence is in past due status, in threat of shutoff or already shut off and must be restored, SER payment may be authorized to the enrolled provider. ERM 301, p. 1. However, SER assistance for such services is available only during the crisis season, which runs from November 1 through May 31. ERM 301, p. 1. Requests for those services will be denied June 1 through October 31. ERM 301, p. 1.

Because Claimant's request for SER assistance with her heat and electricity in the June 18, 2014, application was not made during the crisis season, the Department acted in accordance with Department policy when it denied the June 18, 2014, application for SER assistance with heat and electrical bills.

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 (i) acted in accordance with Department policy when it denied Claimant's June 18, 2014, SER application but (ii) did not act in accordance with Department policy when it failed to process its May 15, 2014, SER Decision Notice and (iii) did not satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's May 9, 2014 application for .SER assistance with property taxes, non-energy home repairs, cooking gas, and water or sewage.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the Department's denial of Claimant's June 18, 2014, SER application and REVERSED IN PART with respect to the Department's failure to process the May 15, 2014, SER Decision Notice.

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. Pay Claimant's energy and gas provider \$450.
2. Reregister and reprocess Claimant's May 9, 2014 SER application only with respect to her request for assistance with property taxes, non-energy home repairs, cooking gas, and water or sewage;

3. Provide Claimant with SER assistance she is eligible to receive based on the reprocessed application for the identified services; and
4. Notify Claimant in writing of its decision concerning the reprocessed application.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

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

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

ACE / pf

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]