

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

IN THE MATTER OF:

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

Reg. No.: 14-007985
Issue No.: 5001
Case No.: ██████████
Hearing Date: October 15, 2014
County: MACOMB-DISTRICT 20
(WARREN)

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 October 15, 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 application with non-heat electricity and heat ("energy services")?

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 April 16, 2014, Claimant applied for SER assistance with energy services.
2. On April 16, 2014, Claimant also provided a non-heat electricity shut-off notice, which indicated an account balance of \$2,001.07 as of December 13, 2011. See Exhibit 1, pp. 4-5.
3. On April 16, 2014, Claimant also provided a heat/gas bill, which indicated an account balance of \$554.31 due on June 20, 2012. See Exhibit 1, p. 6.
4. On April 18, 2014, the Department sent Claimant an Application Notice, which denied her SER assistance request for energy services due to the bills provided by

Claimant are too old and the services are not covered under SER policy. See Exhibit 1, p. 7.

5. On July 16, 2014, Claimant filed a hearing request, protesting the SER denial. See Exhibit 1, p. 2.

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.

Preliminary matter

Shortly after commencement of the hearing, Claimant testified that she was also disputing her SER denials from 2011 and 2012. Claimant acknowledged during the hearing that she received SER denials for the applications in 2011 and 2012.

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 (July 2014), pp. 4-6, 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.]

Based on the above information, this hearing lacks the jurisdiction to address Claimant's SER denials from the years 2011 and 2012. Claimant's hearing request (dated July 16, 2014) was not timely filed within ninety days of the denial notices received in 2011 and 2012. See BAM 600, pp. 4-6.

SER energy services 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.

In this case, on April 16, 2014, Claimant applied for SER assistance with energy services. On April 16, 2014, Claimant also provided a non-heat electricity shut-off notice, which indicated an account balance of \$2,001.07 as of December 13, 2011. See Exhibit 1, pp. 4-5. On April 16, 2014, Claimant also provided a heat/gas bill, which indicated an account balance of \$554.31 due on June 20, 2012. See Exhibit 1, p. 6.

At the hearing, the Department testified that Claimant submitted bills from 2011 and 2012 for an old address that Claimant no longer resides in. See Exhibit 1, p. 1. As such, on April 18, 2014, the Department sent Claimant an Application Notice, which denied her SER assistance request for energy services due to the bills provided by Claimant are too old and the services are not covered under SER policy. See Exhibit 1, p. 7. It should be noted that the Department testified that it is able to verify Claimant's energy services bills.

During the hearing, Claimant indicated three separate addresses that she had resided in, which will be described as follows: (i) "first address" will refer to the address located on Claimant's energy service bills; (ii) "second address" will refer to Claimant's address at the time of SER application; and (iii) "third address" will refer to Claimant's current address at the time of the October 2014 hearing.

Claimant testified that the first address located on the energy service bills was the last bills/shut-off notices she had. See Exhibit 1, pp. 4-5. Therefore, Claimant argued she was unable to provide any updated energy service bills.

Then, on an unspecified date in 2013, Claimant testified that she moved into her second address. At the second address, Claimant testified that her rent included the energy service bills (not in her name) because of the past due amounts. However, it appeared that Claimant moved again to her third address. Claimant testified that her third address also had the energy service bills included in her rent. Claimant argued that she is restricted in moving to a new residence because she would be unable to start-up service at a new address.

Regarding energy services eligibility, Claimant's bill must be connected to the group's current address. ERM 301, p. 4. 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. ERM 301, p. 4.

The Department verifies past due status, threatened shutoff or the need for reconnection of natural gas or electricity, by contacting the energy company. ERM 301, p. 9. The case file must contain documentation of this verification. ERM 301, p. 9. ERM 301 also states how the Department can access client's energy account information. See ERM 301, pp. 11-13.

Based on the foregoing information and evidence, the Department improperly denied Claimant's SER application with energy services effective April 18, 2014. Even though Claimant's energy service bills were from the years 2011 to 2012, the Department has access to verify Claimant's past due amounts. See ERM 301, p. 4 and ERM 301, pp. 9-13. As such, the Department could have verified Claimant's energy service bills rather than deny her application based on the old bills.

Moreover, it is not unreasonable that Claimant only provided her old bills. 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. ERM 301, p. 4. The Department can use Claimant's old or transferred bills to authorize SER energy services. See ERM 301, p. 4. However, this hearing decision does not establish that Claimant is eligible for SER energy services. Instead, this hearing decision orders the Department to re-determine Claimant's SER eligibility with energy services.

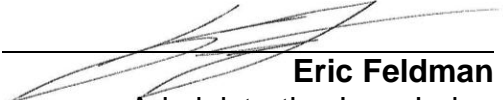
DECISION AND ORDER

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 (i) Department did not act in accordance with Department policy when it improperly denied Claimant's SER application with energy services effective April 18, 2014; and (ii) this hearing lacks the jurisdiction to address Claimant's SER denials from the years 2011 and 2012.

Accordingly, the Department's SER decision AFFIRMED IN PART with respect to lack the jurisdiction to address Claimant's SER denials from the years 2011 and 2012 and REVERSED IN PART with respect to SER denial effective April 18, 2014.

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 energy services dated April 16, 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.



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

Date Signed: **10/20/2014**

Date Mailed: **10/20/2014**

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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]