

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 14-019070
Issue No.: 2000; 3000; 5000; 5001
Case No.: ██████████
Hearing Date: February 04, 2015
County: Wayne-District 15

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 telephone hearing was held on February 4, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist and ██████████, Family Independence Manager.

ISSUE

Did the Department properly process Claimant's Food Assistance Program (FAP), Medical Assistance (MA), and State Emergency Relief (SER) benefits?

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 ongoing recipient of FAP and MA benefits.
2. In connection with a redetermination, Claimant's eligibility for FAP and MA benefits was reviewed.
3. On or around August 26, 2014, Claimant submitted a request for SER assistance with home repairs.
4. On September 4, 2014, the Department sent Claimant a SER Decision Notice informing her that her request for SER assistance with home repairs was denied on the basis that she failed to verify or allow the Department to verify information necessary to determine eligibility for the program. (Exhibit 3)

5. In September 2014, Claimant completed a WC-14, requesting Emergency Services funds through the Department's local office for assistance with replacing incidentals that were lost due to flooding. (Exhibit 1, p. 2)
6. On an unverified date, the Department approved Claimant's request for Emergency Services funds for replacement of clothing in the amount of \$300. (Exhibit 2, pp. 1-2)
7. The Department issued a Local Payment Authorization (DHS -1291) voucher in the amount of \$300 to Claimant with [REDACTED] listed as the payee/vendor. (Exhibit 2, pp. 4-5)
8. On December 16, 2014, Claimant requested a hearing disputing the Department's actions with respect to her FAP, MA and SER benefits.

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).

FAP/MA

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 hearing was requested to dispute the Department's action taken with respect to Claimant's FAP and MA benefits. Shortly after commencement of the hearing, Claimant testified that she understood the actions taken by the Department and did not wish to proceed with the hearing concerning her FAP and MA benefits. Claimant stated that the issues with her FAP and MA cases that she had requested a hearing on had been resolved and confirmed that no promises were made to her in exchange for her not wanting to continue with the hearing. The Request for Hearing was withdrawn. The

Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing is, hereby, **DISMISSED**.

SER

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.

SER For Home Repairs

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. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (January 2015), p. 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.]

In the present case, on or around August 26, 2014, Claimant submitted an SER application requesting assistance with home repairs, as her home had been damaged due to flooding. On September 4, 2014, the Department sent Claimant a SER Decision Notice advising Claimant of its decision to deny her SER application on the basis that she failed to verify or allow the Department to verify necessary information. (Exhibit 3).

Although Claimant testified that she did not receive the SER Decision Notice informing her of the application denial, the proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). The SER Decision Notice was mailed to Claimant at her confirmed mailing address and Claimant did not report to the Department that she was having problems receiving mail. Claimant confirmed that she was aware her

application had been denied, as she had spoken to her case worker about the denial and also submitted a request for Emergency Services funds when her SER application was denied. Thus, Claimant did not provide sufficient evidence to rebut the presumption that she received the SER Decision Notice. Claimant did not file a request for hearing to contest the Department's action until December 16, 2014. Claimant's hearing request was not timely filed within ninety days of the SER Decision Notice and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p. 6.

SER for Emergency Services Funds

Emergency Services (ES) funds are discretionary funds allocated to each local office to provide assistance when: SER does not cover the requested service or the amount needed exceeds the SER payment limits. ERM 209 (March 2013), p. 1. A SER application must be submitted and eligibility must be determined prior to any service or cost being paid using ES funds. ERM 209, p. 1. ES funds may be authorized for the replacement of incidentals such as clothing lost in a natural or chemical disaster, fire, civil disorder or other catastrophic event. ERM 209, p. 3.

In this case, in September 2014, Claimant completed a WC-14, requesting Emergency Services funds through the Department's local office for assistance with replacing incidentals that were lost due to flooding. (Exhibit 1, p. 2). On an unverified date, the Department approved Claimant's request for emergency services funds for replacement of clothing in the amount of \$300 and issued a Local Payment Authorization (DHS - 1291) voucher in the amount of \$300 with [REDACTED] as the vendor. (Exhibit 2, pp. 1-2, 4-5).

At the hearing, Claimant testified that she attempted to use the voucher at [REDACTED] but was informed that [REDACTED] did not accept this form of payment. Claimant stated that she informed the Department that [REDACTED] rejected the voucher for her clothing purchases and that she was informed by the Department that a new voucher would be issued for [REDACTED], which she stated that as of the hearing date, has not been done.

The Department stated that it submitted a request to the fiscal unit so that the voucher could be re-issued for [REDACTED], however, as of the hearing date, the voucher had not been issued. The Department remained unable to explain the status of Claimant's emergency services funds request and failed to provide any documentation in support of its testimony that a request was made to the fiscal unit for the reissuance of the voucher. The Department provided conflicting information throughout the hearing and it was unclear exactly what happened with respect to Claimant's request for emergency services funds.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's request with Emergency Services funds for a clothing voucher.

DECISION AND ORDER

Accordingly, the hearing request with respect to FAP, MA, and SER with home repairs is **DISMISSED** and the Department's decision is **REVERSED** with respect to Claimant's request for Emergency Services funds for a clothing voucher.

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. Issue the Local Payment Authorization (DHS -1291) voucher in the amount of \$300 to [REDACTED]; and
2. Notify Claimant in writing in accordance with Department policy.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/12/2015**

Date Mailed: **2/12/2015**

ZB / tlf

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 48909-8139

CC: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]