

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

IN THE MATTER OF:



Reg. No.: 2014-13104
Issue No(s): 3002, 5001
Case No.: [REDACTED]
Hearing Date: December 18, 2013
County: Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 December 18, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] and [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Assistance Payments Worker. [REDACTED] [REDACTED] Eligibility Specialist, was also present.

ISSUES

- 1) Did the Department properly deny the Claimant's State Emergency Relief (SER) application for energy services because it was filed during the non-crisis period and for home repairs because the Claimant lives in an apartment?
- 2) Did the Department properly deny the Claimant's Food Assistance Program (FAP) application based on a failure to comply with verification requirements?

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 October 2, 2013, the Claimant applied for SER and FAP.
2. On October 4, 2013, a SER Decision Notice was issued to the Claimant stating the SER requests were denied because the Claimant does not have an emergency.
3. On October 4, 2013, a Verification Checklist was issued to the Claimant stating what verifications were needed by the October 14, 2013 due date.
4. On November 1, 2013, notice of the FAP denial was issued to the Claimant.

5. On November 7, 2013, the Claimant filed a request for hearing contesting 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 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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

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 by Mich Admin Code, R 400.7001 through R 400.7049.

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. Non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement. ERM 304.

Additionally, a Claimant must cooperate with the local office in determining initial and ongoing eligibility, including completion of necessary forms, and must completely and truthfully answer all questions on forms and in interviews. BAM 105.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. The client must obtain required verification, but the Department must assist if the client needs and requests help. If neither the client, nor the Department, can obtain verification despite a reasonable effort, the Department worker should use the best available information. If no evidence is available, the Department worker is to use their best judgment. The Department is to send a case action notice when the client indicates refusal to provide a verification, or the time period given has elapsed. BAM 130.

For FAP, if the client contacts the Department prior to the due date requesting an extension or assistance in obtaining verifications, the Department must assist them with the verifications but not grant an extension. The Department worker must explain to the client they will not be given an extension and their case will be denied once the due date is passed. Also, the Department worker shall explain their eligibility and it will be

determined based on their compliance date if they return required verifications. BAM 130. The Department must re-register the FAP application if the client complies within 60 days of the application date. BAM 115 and BAM 130.

On October 2, 2013 the Claimant applied for SER energy services (electric deposit/reconnect fee and electric bill), non-energy home repairs, and non-energy utility services (deposit/reconnect fee). (Exhibit A, Pages 26 and 37- 40) Under the above cited ERM 301 policy, the energy related services had to be denied because the Claimant's SER application was filed before November 1, the start of the SER crisis season. The Assistance Payments Worker also explained that the home repair services were denied because the Claimant lives in an apartment. (See also Exhibit A, page 39) The above cited ERM 304 policy is clear that home repairs are only considered for client-owned housing. It appears that the application for non-energy utility services (deposit/reconnect fee) was in error as this deposit/reconnect fee is exactly the same amount as the energy related SER request for electric deposit/reconnect fee. (Exhibit A, Page 38) The Department appropriately denied the SER requests for energy related services because the application was filed prior to the November 1 start of the crisis season and appropriately denied the SER request for home repair because the request was not for client-owned housing.

On October 2, 2013 the Claimant also applied for FAP. On October 4, 2013, a Verification Checklist was issued to the Claimant stating what verifications were needed by the October 14, 2013 due date. The Assistance Payments Worker testified that he was not aware of the Department receiving any requests for assistance with obtaining the verifications or for an extension of the due date. The Assistance Payments Worker testified that on November 1, 2013, the Claimant's FAP application was denied because the verifications had not been returned. Rather, the Claimant did not submit the verifications until November 7, 2013, when the request for hearing was filed.

The Claimant indicated he previously applied for FAP, was denied, and was then advised to reapply. The Claimant stated he re-applied, but then did not hear anything back from the Department for several weeks. The Claimant had been told something would come by mail, but nothing arrived. The Claimant also checked the online MI Bridges site. The Claimant specifically testified that he did not receive the October 4, 2013, Verification Checklist. The Claimant testified that he called the caseworker several times. The Claimant and his witness both provided testimony that they had been told the Department was having computer system problems with mailings in October 2013.

The Assistance Payments Worker testified that while he was not familiar with a computer system error in October 2013, he would not doubt that there was one. Accordingly, the Department has not presented sufficient evidence that they told the Claimant what verification is required and how to obtain it, by the October 14, 2013 due date.

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

- acted in accordance with Department policy when it denied the Claimant's SER application for energy services because it was filed during the non-crisis period and for home repairs because the Claimant lives in an apartment.
- did not act in accordance with Department policy when it .
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied the Claimant FAP application based on a failure to comply with verification requirements.

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
 - REVERSED.
 - AFFIRMED IN PART with respect to the SER denial and REVERSED IN PART with respect to the FAP denial.
- 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. Re-instate the Claimant's October 2, 2013 FAP application and re-determine eligibility in accordance with Department policy.
 2. Issue the Claimant any supplement he may thereafter be due.

/s/

Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 26, 2013

Date Mailed: December 27, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

CL/hj

cc:

