

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

IN THE MATTER OF:



Reg. No.: 2014-36115
Issue No(s): 2001
Case No.: [REDACTED]
Hearing Date: September 17, 2014
County: Oakland (63-03)

**DECISION AND ORDER AFTER NEW HEARING
PURSUANT TO CIRCUIT COURT REMAND**

PROCEDURAL HISTORY

On October 1, 2012, Claimant filed a Request for Hearing disputing the Department's action concerning his State Emergency Relief (SER) benefits.

On a March 28, 2012, a telephone hearing was held in response to Claimant's hearing request.

On June 12, 2013, Michigan Administrative Hearing System (MAHS) Administrative Law Judge (ALJ) Jan Leventer issued a Hearing Decision affirming the Department.

On July 17, 2013, MAHS received Claimant's Motion for Rehearing/Reconsideration.

On January 14, 2014, MAHS Supervising Administrative Law Judge Kathleen H. Svoboda issued an Order Denying Request for Rehearing/Reconsideration finding that Claimant's request was not timely.

On April 21, 2014, Claimant filed a Claim of Appeal in the Oakland County 6th Circuit Court.

On June 6, 2014, the parties signed a Stipulation to Remand and Dismiss Administrative Appeal, agreeing that the appeal should be remanded to MAHS, with Claimant's Request for Rehearing/Reconsideration treated as timely filed.

On June 6, 2014, the Honorable Denise Langford Morris, Oakland County 6th Circuit Court Judge, entered an Order incorporating the terms agreed by the parties and dismissing the matter with prejudice.

On September 17, 2014, a telephone hearing was held from Detroit pursuant to the Oakland County Circuit Court Order. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED]

ISSUE

Did the Department fail to properly process its August 20, 2012, State Emergency Relief (SER) Decision Notice approving Claimant's application for SER assistance with furnace repair/replacement?

FINDINGS OF FACT

1. On August 13, 2012, Claimant applied for SER assistance with furnace repair/replacement and included a quote from Family Heating, Cooling & Electrical, Inc. (Provider) that the service would cost \$2,095.
2. On August 20, 2012, the Department sent Claimant a SER Decision Notice notifying him that it agreed to pay \$2,095 for furnace repair/replacement and advising him that he must provide the original bill for furnace repair/replacement by September 11, 2102, or payment may not be made.
3. On August 31, 2012, Provider installed the furnace, and Claimant paid Provider \$2,877.
4. On or before September 11, 2012, the Department received a copy of Provider's invoice showing charges of \$2,877 for Claimant's furnace replacement.
5. The Department contacted Provider, and Provider confirmed that Claimant had paid \$2,877 on August 31, 2012, for the furnace it installed.
6. On September 25, 2012, the Department sent Claimant a second SER Decision Notice, notifying him that it had denied payment of SER funds for furnace repair/replacement because the emergency had been resolved.
7. On October 1, 2012, 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.

SER assistance is available for home repairs to correct unsafe conditions and restore essential services. ERM 304 (August 2012), p. 1. This includes energy-related repairs for repair or replacement of a non-functioning furnace, up to a lifetime maximum of \$4,000. ERM 304, p. 2.

In this case, the Department initially approved Claimant's SER application for assistance with furnace repair/replacement in an August 20, 2012, SER Decision Notice, agreeing to pay up to \$2,095 for the service based on the quote from Provider that Claimant submitted with his application. Claimant testified that, because Provider informed him that the city code required a higher-efficiency furnace than had been previously quoted, he agreed to pay \$2,877 for the furnace replacement.

Provider installed Claimant's furnace on August 31, 2012, and presented Claimant with its bill for services. Claimant explained that, when he presented the installer with the SER Decision Notice in which the Department agreed to pay \$2,095 towards his furnace repair, the installer told him the documentation was inadequate and demanded full payment of \$2,877 from Claimant. Because the furnace was already installed, Claimant testified that he wrote a check to the Provider in the amount of \$2,877, aware that he had insufficient funds in his account, and afterwards got his son to loan him the funds to cover the check.

In this case, the Department acknowledged timely receiving Claimant's invoice for the furnace but explained that, when it contacted the Provider to verify that services were provided and the cost of services, it learned that Claimant had paid the Provider for the furnace himself in an amount greater than had been authorized by the Department. The Department concluded that, because the emergency was resolved prior to its issuance of payment, Claimant was ineligible for SER assistance and sent him a September 25, 2014 SER Decision Notice denying the application.

At the hearing, Claimant argued that the Department failed to provide him with the documentation, specifically the DHS-849, Authorization/Invoice, necessary to properly process the Provider's payment and, because of the Department's error, he was put in the position where he had to pay for the furnace himself. Claimant pointed out that his online approval for SER assistance notified him that "[a]ll payments will be made to the Provider within 14 days of receiving the actual bill of service and the DHS-849 Authorization/Invoice, signed by both you and the contractor," but did not advise him that the DHS-849 had to be provided to the Provider to notify the Provider of the Department's approval of Claimant's SER application.

The DHS-849 is used by the Department to notify the vendor and local office fiscal unit of the SER group's copayment and approved services. ERM 208 (August 2012), p. 3. Department policy provides that, for home repairs, the DHS-849 must be signed by the provider and by the client if the provider does not submit an itemized bill or statement of

services which includes the client's name, address and signature. ERM 401 (August 2012), p. 1.

At the hearing, the Department acknowledged that the DHS-849 was not provided to Claimant with the SER Decision Notice approving his application, or at any time prior to the August 31, 2012, installation of his furnace. Therefore, Claimant could not properly notify the Provider of his SER approved services.

Nevertheless, the Department contends that Claimant resolved his emergency, and, consequently, he was no longer eligible for SER assistance. As a condition of SER eligibility, an SER applicant must have an emergency which threatens health or safety and can be resolved through issuance of SER. ERM 101 (April 2011), p. 1. An emergency is defined as "a situation in which immediate action is necessary to prevent serious harm or hardship." SER Glossary (April 2008), p. 4. The SER payment must resolve the emergency. ERM 103 (August 2013), p. 3. The Department worker must continue to verify the emergency and need amount before the Department authorizes and issues payment for SER covered services. ERM 401, p. 1.

Although Claimant was placed in an unfortunate situation under the facts in this case, by paying for the furnace in full himself before the Department authorized payment, Claimant resolved his emergency. Because the Department verified before it issued payment that Claimant no longer had the emergency, and the need amount had changed, the Department acted in accordance with Department policy when it did not issue payment to the Provider. Furthermore, Department policy provides that the Department may issue SER funds to reimburse expenses incurred or paid with *prior* Department approval. ERM 103, p. 3. Because the Department did not authorize Claimant to pay the Provider, he is not eligible for reimbursement from the Department for his payment to Provider.

While Claimant acted in reliance that the Department would assist in paying for the furnace replacement and was not properly advised of the procedure, the undersigned is bound by the Department policies applicable under the facts in this case in finding in the Department's favor. However, Claimant is advised that Department policy provides that exceptions to SER policy may be granted by only the central office on a case-by-case basis for unique and unusual circumstances. ERM 104 (August 2012). The request for exceptions to SER policy must be made by the local office to the central office. ERM 104, 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 acted in accordance with Department policy when it did not authorize and issue payment for Claimant's furnace replacement.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: October 10, 2014

Date Mailed: October 10, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

ACE/pf

cc:

