

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20149695
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: December 12, 2013
County: Marquette

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 12, 2013, from Lansing, Michigan. Claimant appeared along with her authorized hearing representative Attorney [REDACTED]. Participants on behalf of the Department of Human Services (Department) included ES Laituri and AP Supervisor [REDACTED]. This case file contained three separate requests for hearing about three separate Decision Notices of State Emergency Relief (DHS-1419) from two separate State Emergency Relief (SER) applications.

ISSUE

Did the Department determine the correct benefit amount for Claimant's July 18, 2013 State Emergency Relief (SER) application for assistance with heat?

Did the Department determine the correct benefit amount for Claimant's August 30, 2013 State Emergency Relief (SER) application for assistance with non-heat electricity on September 11, 2013?

Did the Department determine the correct benefit amount for Claimant's August 30, 2013 State Emergency Relief (SER) application for assistance with non-heat electricity on September 24, 2013?

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 July 18, 2013, Claimant submitted a State Emergency Relief (SER) application. One of the items requested was [REDACTED] of assistance for heat.
2. On August 21, 2013, Claimant was sent a Decision Notice State Emergency Relief (DHS-1419) which stated Claimant was eligible for a payment of [REDACTED] from DHS once he provided verification of making his [REDACTED] copayment. The total payment would be [REDACTED].
3. On August 30, 2013, [REDACTED] submitted a State Emergency Relief (SER) application requesting assistance for non-heat electric.
4. On September 11, 2013, Claimant was sent a Decision Notice State Emergency Relief (DHS-1419) which stated the Department would pay [REDACTED] for Claimant's deposit/reconnect fee and [REDACTED] once Claimant verified making a [REDACTED] copayment.
5. On September 24, 2013, Claimant was sent a Decision Notice State Emergency Relief (DHS-1419) which stated his request for [REDACTED] of assistance with non-heat electric was denied.
6. On October 17, 2013, Claimant submitted three separate requests for hearing.

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 by Michigan Admin Code, R 400.7001 through R 400.7049.

During this hearing the Department spent 57 minutes trying to show that the calculated copayment was correct for the first request. They did not succeed in that endeavor. The printed evidence and the verbal explanation directed at the first hearing request were incomprehensible at best and frequently inconsistent or contradictory. The Department asserted that the three hearing issues were sent in together because they are closely related and the amount paid by the Department if any is needed to calculate the correct copayment for the second determination.

Because the Department failed to show the first copayment calculation was correct, the subsequent calculation cannot be correct. A detailed analysis of the evidence presented, applicable Department policies, and reasoning for the decision are contained in the recorded record. During the hearing Claimant was informed of the decision and the reasoning behind the decision.

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 determined the benefit amount for Claimant's July 18, 2013 State Emergency Relief (SER) application for assistance with heat.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

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-determine Claimant's eligibility for assistance with heat for the July 18, 2013 SER application.
2. Re-determine Claimant's eligibility for assistance with non-heat electric for the August 30, 2013 SER application.

/s/
Gary F. Heisler
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/23/2013

Date Mailed: 12/26/2013

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

GFH/sw

cc:

