

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003512
Issue No.: 5000
Case No.: [REDACTED]
Hearing Date: April 23, 2015
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 23, 2015, from Detroit, Michigan. Participants included the above-named Claimant (via telephone). [REDACTED]s, Claimant's niece, testified on behalf of Claimant (via telephone). Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], hearing facilitator.

ISSUE

The issue is whether DHHS processed Claimant's State Emergency Relief (SER) application for house repairs.

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 [REDACTED], Claimant applied for SER seeking assistance with home repairs.
2. On [REDACTED], Claimant requested a hearing to compel DHHS to process his SER application.
3. On [REDACTED], an administrative hearing was held.
4. On [REDACTED], Claimant requested a second hearing to compel DHHS to process Claimant's SER application.

5. On [REDACTED], a Michigan Administrative Hearing System administrative decision ordered DHHS to process Claimant's SER application.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by DHHS (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049. DHHS policies are contained in the Services Emergency Relief Manual (ERM).

Claimant requested a hearing to dispute a failure by DHHS to process an SER application requesting assistance with home repairs. The only DHS response was that Claimant's hearing request was untimely.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (January 2015), p. 6. The request must be received in the local office within the 90 days. *Id.*

DHHS failed to present any evidence that a written disposition of Claimant's SER application was issued. Without any written notice, Claimant's hearing request cannot be untimely. Accordingly, it is found that Claimant's hearing request is timely. Claimant's hearing request, however, has another procedural obstacle.

Claimant seeks an administrative order compelling DHHS to process his SER application. If the DHHS failure was not processing Claimant's SER application, Claimant already got his remedy in the form of the administrative order dated [REDACTED], [REDACTED]. Thus, no further remedy is needed. Claimant cannot frame the dispute as a DHHS failure to comply with the administrative order because there was no administrative order as of the date of Claimant's hearing request. Accordingly, Claimant's hearing request dated [REDACTED] must be dismissed due to duplication or lack of ripeness.

Claimant's SER application complaint is not dead. There still exists an administrative order with which DHHS has not complied. If Claimant wishes to pursue a hearing citing DHS' failure to comply with the administrative order, he may now do so. Claimant is also not restricted in pursuing non-administrative hearing remedies.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant's hearing request was either duplicative or unripe concerning

the failure of DHHS to process Claimant's SER application dated [REDACTED]. Claimant's hearing request is **DISMISSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/28/2015**

Date Mailed: **4/28/2015**

CG / hw

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

