

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003761
Issue No.: 2000, 3000, 5001
Case No.: [REDACTED]
Hearing Date: May 06, 2015
County: Monroe

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 6, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny Claimant's January 27, 2015, application for State Emergency Relief (SER)?

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 January 27, 2015, Claimant applied for SER for gas and electric.
2. The Department requested Claimant provide verification of shut off status.
3. On February 23, 2015, an Application Notice was issued to Claimant stating SER was denied because Claimant's need for the requested services does not meet program requirements noting no shut offs.
4. On February 27, 2015, Claimant filed a hearing request contesting the Department's determination¹.

¹ On the February 27, 2015, hearing request, and the copy of that hearing request that was re-submitted on March 21, 2015, Claimant indicated he was also contesting actions regarding the Food Assistance Program (FAP) and Medical Assistance (MA). During the May 6, 2015, telephone hearing proceedings, it

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

SER covered services include heat or electric service for the current residence is in past due status, in threat of shutoff or is already shut off as well as deliverable fuel. Verification(s), such as confirmation of past due or shut off status, is needed. ERM 301, (December 1, 2014).

The SER standard of promptness is 10 calendar days, beginning with the date the signed SER application is received in the local office. The case record must include documentation for any delay in processing the application beyond the standard of promptness. The Department is not to use the standard of promptness as a basis for denial of SER applications. Rather, the Department is to continue to pend an application if the SER group is cooperating within their ability to provide verifications. The Department is to deny the application if the group does not cooperate. ERM 103 (October 1, 2014) p. 6.

In this case, Claimant acknowledged that the Department asked him to provide a copy of a shut-off notice. Claimant testified that he was not sure if he provided the Department with documentation regarding his need for SER for electricity prior to the denial. Claimant stated that the [REDACTED] verbally threatened a shut-off. Claimant also testified that the [REDACTED] had paid over \$ [REDACTED] to the gas company so that he could get his tank filled again. Claimant explained that he had frozen pipes. Claimant testified that the gas was delivered, but he did not have the money to pay for the fill. However, the date stamps on the Statement from the gas company and the Payment Coupon from the electric company indicate that Claimant did not provide these documents to the Department until February 27, 2015. Further, the Statement from the gas company confirmed that the fuel had been delivered on January 28, 2015.

was confirmed that Claimant's FAP case did not close and there is an ongoing FAP approval. Claimant withdrew the FAP portion of his appeal. Regarding the Claimant's MA benefits, there was no evidence of any case action being taken within the 90 days prior to the date Claimant's hearing request was filed. Therefore, there was no jurisdiction to address MA as part of this appeal. (See BAM 600, January 1, 2015, p. 6.) Accordingly, the FAP and MA portions of this appeal are DISMISSED.

The Hearing Facilitator testified that the Department may have also made collateral contacts to verify that there was no shut off and that the fuel was already delivered, which resolved the emergency.

The evidence establishes that the Department did not immediately deny Claimant's January 27, 2015, SER application when the 10 day standard of promptness was up. Claimant acknowledged that the Department requested verification, such as the shut-off notice. There was insufficient evidence to establish that Claimant provided the needed information or let the Department know that he was still trying to cooperate by the time the denial notice was issued on February 23, 2015. For example, the January 31, 2015, Statement from the gas company was not submitted to the Department until February 27, 2015. Further, the Hearing Facilitator indicated the Department may have competed collateral contacts to verify the information needed to determine SER eligibility. Overall, the evidence supports a determination that the February 23, 2015, denial was in accordance with the above cited ERM 103 policy.

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 Claimant's January 27, 2015, SER application.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/15/2015**

Date Mailed: **5/15/2015**

CL/jaf

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:

