

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

IN THE MATTER OF:

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Reg. No.: 15-011311
Issue No.: 3000; 5001
Case No.: ██████████
Hearing Date: August 17, 2015
County: Wayne-District 15

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 August 17, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Family Independence Specialist.

ISSUE

Did the Department properly deny Claimant's May 18, 2015, application for State Emergency Relief (SER) assistance with furnace and electrical 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. In March 2015, Claimant applied for SER assistance with furnace repair/replacement.
2. On April 7, 2015, the Department denied the application based on Claimant's failure to provide verification of her bank accounts.
3. On May 18, 2015, Claimant applied for SER assistance with furnace repair/replacement and electrical repairs.
4. On May 29, 2015, the Department sent Claimant a SER Decision Notice denying the application on the basis that the group did not meet program requirements.

5. On June 18, 2015, Claimant filed a request for hearing disputing the Department's actions concerning her SER application and her Food Assistance Program (FAP) case.

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.

Claimant requested a hearing concerning SER and FAP benefits. At the hearing, she testified that her FAP issues had been resolved to her satisfaction and she wished to withdraw her hearing request concerning the FAP matter. The Department agreed to the withdrawal. Therefore, Claimant's hearing request concerning FAP is dismissed. The hearing proceeded to address Claimant's SER issue.

Claimant initially applied for SER assistance in March 2015, but she admits that she did not timely respond to requests for verification of her checking and savings accounts in connection with that application. Because a client must verify deposit amounts in financial institutions as a condition of SER eligibility, the Department acted in accordance with Department policy when it denied the March 2015 application for failure to verify checking and savings accounts. ERM 205 (March 2013), p. 6.

Claimant subsequently reapplied for SER assistance for furnace repair/replacement and electrical repair on May 18, 2015. The Department denied Claimant's application on the basis that she did not meet program requirements. However, the Department was unable to explain which requirements were not satisfied.

SER provides assistance with energy-related or non-energy related home repairs. ERM 304 (October 2013), p. 1. Repair or replacement of a non-functioning furnace is currently the only allowable energy-related home repair and has a lifetime maximum of \$4,000. ERM 304, p. 2. Non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement, including electrical. ERM 304, p. 3. Therefore, Claimant's request for SER assistance for furnace repair/replacement and electrical work are covered SER services.

For a home repair to qualify for SER, the repair must be (i) essential to remove a direct threat to health or safety or (ii) required by law or a mobile home park regulation. Also,

the repair must restore the home to a safe, livable condition. ERM 304, p. 3. Additionally, all of the following conditions must be satisfied:

- An SER group member is an owner or purchaser of the home, or holds a life estate on the home with the responsibility for home repairs. If the home is co-owned, the cost of the emergency is not split between the co-owners or co-purchasers.
- The home is the SER group's permanent, usual residence.
- The home is not listed for sale.
- The home is not in jeopardy of loss. (This only applies to home repairs.) Deny repairs if there is a house payment or property tax arrearage, unless a workable plan exists for paying the arrearage.
- The ongoing cost of maintaining the home is affordable to the SER group; see ERM 207, Housing Affordability.
- The SER group did not cause the emergency. Do **not** authorize Home Ownership Services if the emergency was client-caused; see ERM 204, Client Caused Emergencies. (Property tax and home repair requests are exempt from the client-caused provision in Item 204.)
- The home is in livable condition and payment will guarantee safe, sanitary shelter both now and in the future. Do not approve any home ownership services payments for homes that are not in a livable condition or cannot be brought to a livable condition within the remaining SER home repair limit.
- The total amount of tax arrearage for **all** years does not exceed \$2,000. (This only applies to home ownership for taxes.)
- The amount to be authorized does not exceed the home ownership services maximum of \$2,000, the energy-related home repair maximum of \$4,000 or the non-energy-related home repair maximum of \$1,500, and the issuance amount will resolve the emergency.

ERM 304, pp. 4-5.

The client must also provide at least one estimate of the repair cost from a licensed contractor and establish that any new furnace meets minimum energy efficiency requirements. ERM 304, p. 5.

In this case, Claimant testified that she owned the property, with no mortgage, and presented evidence to show that she was receiving monthly cash assistance of \$500 from a relative and that she had entered into a workable plan for payment of outstanding taxes. She also presented quotes for the cost of requested repairs.

Although the Department denied receiving some of the documents presented by Claimant, Claimant credibly testified that she provided all of the documents presented at the hearing, showing that she had printed the Department policy from its website concerning the requirements for SER eligibility and using the online requirements to guide her in providing documentation. Moreover, there was no evidence presented by the Department that it ever requested any verifications from Claimant, contrary to ERM 103 (October 2013), p. 6.

In light of the evidence presented, and the Department's failure to identify how Claimant had failed to meet program requirements, 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 denied Claimant's May 18, 2015, SER application.

DECISION AND ORDER

For the reasons described above, Claimant's request for hearing concerning FAP is **DISMISSED**.

The Department's May 29, 2015, SER 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. Reregister and reprocess Claimant's May 18, 2015, SER application;
2. Issue payments to Claimant's providers for SER benefits Claimant is eligible to receive; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/21/2015**

Date Mailed: **8/21/2015**

ACE / tlf

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

