

**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.: 15-011375
Issue No.: 5001
Case No.: ██████████
Hearing Date: August 27, 2015
County: Wayne-District 76

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 27, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearings Facilitator and ██████████, Assistance Payment Worker.

ISSUE

Did the Department properly process Claimant's request for State Emergency Relief (SER) assistance with furnace repair/replacement?

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 or around April 20, 2015, Claimant submitted an application for SER assistance with furnace repair/replacement.
2. On April 29, 2015, the Department sent Claimant a SER Decision Notice informing her that she was approved for SER assistance but that by May 19, 2015, she would be required to make a payment towards the amount of assistance that she had requested, prior to the Department paying its approved amount. (Exhibit A)
3. On May 18, 2015, Claimant provided the Department with proof that she made her required \$250 payment.

4. The Department did not make its approved \$4000 payment towards the cost of Claimant's furnace repair/replacement.
5. On June 22, 2015, Claimant requested a hearing disputing the Department's actions.

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 assists with home repairs to correct unsafe conditions and restore essential services. ERM 304 (October 2013), p. 1. The Low Income Home Energy Assistance Program (LIHEAP) is the funding source for energy-related repairs. Repair or replacement of a non-functioning furnace is currently the only allowable energy-related home repair. The lifetime maximum for energy-related home repairs is \$4,000. ERM 304, p.2.

Department policy provides that if the SER group meets all eligibility criteria but has an income or asset copayment, shortfall, and/or contribution, verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made and the client must reapply. ERM 103 (October 2013), p. 4; ERM 401 (October 2013), p. 2. All SER service providers must be enrolled in Bridges before payment can be issued. Energy providers must be enrolled by central office, however, the local office should provide a DHS-355, Energy Supplier Participation Agreement, to providers requesting enrollment. Providers must register in the Contract & Payment Express (C&PE) in order to receive an SER payment and the Department is to refer providers to the C&PE system, <http://www.michigan.gov/cpexpress>, prior to enrollment. ERM 401, p.2. Local office issuance is allowed in instances when the provider has not yet been enrolled due to a delay in enrollment and requires approval by the program office. ERM 401, p. 5.

In this case, Claimant applied for SER assistance with furnace repair/replacement. The Department received proof that Claimant had made her required \$250 payment towards the request for assistance within the applicable 30 day eligibility period. The Department stated that because the heating and cooling company did not have a provider number, it could not issue payment. The Department testified that it verbally provided the owner of

the furnace repair/replacement company with the website that he was required to visit to self-enroll and receive a provider number. The Department told the owner of the company to contact the Department after becoming enrolled and receiving a provider number. The Department testified that because the 30 day authorization period ended prior to the furnace repair/replacement company becoming enrolled and receiving a provider number, the Department did not issue its approved payment of \$4000.

At the hearing, Claimant testified that she made her required \$250 payment within the timeframe allowed. Claimants stated that she spoke with the heating and cooling company and was informed that the company was an enrolled provider and has done business with the Department in the past. Claimant testified that the owner of the company gave her a number which he stated was a provider number; however, the Department testified that the number given to Claimant was not an enrolled provider number.

There was no evidence presented that the Department provided the furnace repair/replacement company with a copy of the DHS-355 to be completed and returned or that the Department followed the local issuance policy referenced above.

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 processed Claimant's SER application.

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. Register and process Claimant's April 20, 2015, application for SER in accordance with Department policy;
2. Determine Claimant's eligibility for SER assistance as of the application date; and
3. Issue a new SER Decision Notice informing Claimant of the Department's decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/4/2015**

Date Mailed: **9/4/2015**

ZB / 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

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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