

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-015665
Issue No.: 5001
Agency Case No.: [REDACTED]
Hearing Date: [REDACTED]
County: MARQUETTE

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 November 5, 2015, from Lansing, Michigan. [REDACTED], the Claimant, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor (APS), and [REDACTED] Eligibility Specialist (ES).

ISSUE

Did the Department properly deny Claimant's State Emergency Relief (SER) request for non-energy home repairs for the water heater tank?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was approved for SER for furnace repair/replacement and another home repair with a 30-day SER eligibility period of [REDACTED]. (Department Exhibit A, p. 15)
2. On [REDACTED], Claimant notified the Department that her water heater tank broke and submitted some documentation for this repair to be added to the current SER approval. (Department Exhibit A, pp. 11 and 14)
3. On [REDACTED], Claimant submitted an estimate from a contractor, [REDACTED] [REDACTED] for the water heater tank as well as part of the other repairs from the original SER approval. (Department Exhibit A, p. 12)

4. On [REDACTED], Claimant submitted an April 13, 2015, invoice from [REDACTED] for the completed repairs. (Department Exhibit A, p. 13)
5. On [REDACTED], Claimant submitted another SER application for the water heater tank. (Department Exhibit A, pp. 5-7)
6. On [REDACTED], the Department issued an SER Decision Notice to Claimant stating the request for non-energy home repairs was denied because the emergency had already been resolved. (Department Exhibit A, pp. 8-10)
7. On [REDACTED], Claimant filed a hearing request contesting the Department's determination. (Department Exhibit A, pp. 2-4)

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.

The application date is the first day of the 30-day SER eligibility period. If the application is approved, the 30-day eligibility period does not change regardless of how many service requests the client may make during that period. If the application is denied and the client reapplies, a new 30-day period will start with that new application date. ERM 103, (October 1, 2013), p. 2.

If additional SER services are requested during the approved 30-day eligibility period, a new application is not needed and the application date cannot be changed. Every additional request made during the approved 30-day eligibility period is entered into Bridges as an additional SER service request and is subject to the original 30-day eligibility period. ERM 103, p. 2. (Underline added by ALJ)

Example: Client applies for assistance with an electric shut-off on 6/1 and is approved. This establishes a 30-day SER eligibility period of 6/1-6/30. On 6/25, the client requests an additional SER service for a natural gas shut-off. The client has not made the required payments to the natural gas provider and has a shortfall. Because the client has requested the additional service during the 6/1-6/30 eligibility period, this request is subject to that period. The client only has until 6/30 to provide proof of the shortfall payment for the 6/25 request. ERM 103, p. 2.

To determine eligibility, the Department is to complete an SER budget in Bridges for each request/application. The Department is also to issue a DHS-1419 to inform applicants of the decision. ERM 103, pp. 2-3.

Claimant was approved for SER for furnace repair/replacement and another home repair with a 30-day SER eligibility period of March 10, 2015, through April 8, 2015. (Department Exhibit A, p. 15)

On March 30, 2015, Claimant notified the Department that her water heater tank broke and submitted some documentation for this repair to be added to the current SER approval. (Department Exhibit A, pp. 11 and 14) On April 6, 2015, Claimant submitted an estimate from a contractor, Swailes Plumbing & Heating Inc., for the water heater tank as well as part of the other repairs from the original SER approval. (Department Exhibit A, p. 12) There was no evidence that the Department entered the additional SER requested for the water heater tank into Bridges even though the request was made and verification was provided within the 30-day SER eligibility period of March 10, 2015, through April 8, 2015. For example, the July 27, 2015, email from the Department's policy unit, in part, notes:

There is an estimate for a water heater dated April 6th which was within the approved 30 day period of March 10-April 8th. Did she request help at that time or had the repair already been completed? She claims to have received verbal approval although I don't see that a request was processed ...

(Department Exhibit A, p. 15)

The [REDACTED], email response from the APS, in part, inaccurately states there was no request made for the water heater. The APS also wrote that she spoke with Claimant when Claimant called on a day that the ES was out; the APS let Claimant know that Claimant still had funds left on her cap and the water heater was a service that is eligible to be covered by the SER program; and that Claimant would have to apply for the service and speak to the ES when the ES returned. (Department Exhibit A, p. 16)

It also appears that only some of the calls and contacts regarding Claimant's SER request were documented in the case record. For example, the case comment summary has no entries between [REDACTED]. During this time there were alleged contacts between Claimant and the APS, Claimant and the ES, and [REDACTED] and the Department. Testimony and other documentary evidence establish that at least some of the other alleged contacts occurred, such as another SER application being printed for Claimant to complete on [REDACTED]; the [REDACTED], written message Claimant left for the ES in part stating she spoke with the APS; and the [REDACTED], email response from the APS acknowledging a conversation with Claimant. (Testimony of Claimant, APS, ES; Department Exhibit A, pp. 5, 11, 13, 16, and 18)

The Department denies that a verbal approval for the water heater repair was given. However, the APS, in her testimony and the [REDACTED], email, acknowledged that in part, she told Claimant over the phone that water heater repair is a covered SER service and it looked like there was enough money left under the cap. (Testimony of APS and Department Exhibit A, p. 16)

The testimony of the ES, APS, and Claimant indicate that during this time the Department was also waiting on an estimate from another contractor for part of the repairs from the original SER request. It appears this was the reason the Department did not enter the [REDACTED], additional SER request for Claimant's water heater repair into Bridges or issue any determination notice for this additional service request.

Rather, the evidence shows that after the invoice for the repairs was received on [REDACTED], the Department had Claimant complete another SER application and then denied that application because the emergency had already been resolved. (Department Exhibit A, pp. 5-10 and 13)

Under the above cited ERM 103 policy, the [REDACTED], SER request for the water heater repair should have entered into Bridges as an additional service request because it was made within the original 30-day SER eligibility period of March 10, 2015, through [REDACTED]. It is also noted that the contractor estimate that included this repair was submitted on [REDACTED], which was also before the end of the original 30-day SER eligibility period. The ERM 103 policy is clear that no new application was needed for the additional service request. Additionally, the evidence establishes that Claimant's emergency with the water heater tank had not been resolved at the time the [REDACTED], [REDACTED] request for this additional service was made.

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 SER request for non-energy home repairs for the water heater tank.

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 SER for the [REDACTED], request for the water heater tank repair in accordance with Department policy.

2. Issue written notice of the determination in accordance with Department policy.

Colleen Lack

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

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

[REDACTED]

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:

