

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-003968
Issue No.: 5001
Case No.: [REDACTED]
Hearing Date: May 07, 2015
County: SAGINAW

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 7, 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], Supervisor.

ISSUE

Did the Department properly process Claimant's February 6, 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 February 6, 2015, Claimant applied for SER for his mortgage, home repairs, electricity, and water/sewer.
2. On February 12, 2015, a SER Decision Notice was issued to Claimant stating the request for water or sewage was denied because the income/asset copayment is equal to or greater than the amount needed to resolve the emergency.
3. On March 6, 2015, Claimant filed a hearing request¹ contesting the Department's determination.

¹ On the March 6, 2015, hearing request and in his testimony, Claimant indicated he was also contesting many other actions this ALJ has no jurisdiction to review. An individual has 90 calendar days from the date of the written notice of case action to request a hearing. For the Food Assistance Program (FAP) only, an individual may also appeal the current level of benefits. BAM 600, January 1, 2015, p. 6.

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 applicants have the right to request a hearing regarding any action, failure to act, or undue delay in processing by the department. ERM 102, October 1, 2013, p. 2.

In this case, Claimant applied for SER for his mortgage, home repairs, electricity, and water/sewer on February 6, 2015. However, the February 12, 2015, SER Decision Notice only stated the request for water or sewage was denied because the income/asset copayment is equal to or greater than the amount needed to resolve the emergency.

The Department asserted that during the telephone interview for the February 6, 2015, SER application, Claimant was clear that he was requesting assistance with water only. Claimant testified that he did not request SER just for water. The Department worker was not present at the hearing to testify about what occurred during the interview. The Supervisor reviewed the case notes during the hearing proceedings and did not find anything supporting that during a telephone interview Claimant stated he only wanted assistance with water.

Further, the Department's consideration of only the SER request for water, and not also considering the requests for assistance with the mortgage and electricity that were included on the February 6, 2015, SER application, appear to have affected the eligibility determination for this application. While there is no jurisdiction to review the determination for the later March 6, 2015 SER application itself as part of this appeal, the hearing summary states that the Department was able to approve potential help with the water because of the additional requests with heat/electric and foreclosure. Overall, the Department has not presented sufficient evidence to establish that the

Therefore, there is no jurisdiction to review older case actions going back to 2013, or more recent case actions that occurred after March 6, 2015. Further, this ALJ has no jurisdiction to review actions that were part of a prior appeal for which an Order Denying Request for Rehearing/Reconsideration has been issued. Specifically regarding the FAP program, Claimant's prior FAP case closed in June 2014 and Claimant did not apply again until April 9, 2015. Accordingly, there is no jurisdiction to address FAP as part of this appeal because that application was not even filed until after the March 6, 2015, hearing request was filed. Regarding the Medical Assistance (MA) program, Claimant testified that the MA issue is resolved and withdrew that portion of his hearing request on the record. Accordingly, the FAP and MA portions of this appeal are DISMISSED.

February 6, 2015, SER application was processed in accordance with Department 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it processed Claimant's February 6, 2015, application for SER.

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 February 6, 2015, application, including all of the types of SER requested, in accordance with Department policy.
2. Issue written notice of the determination in accordance with Department policy.
3. Supplement for lost benefits (if any) that Claimant was entitled to receive, if otherwise eligible and qualified in accordance with Department policy.



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:

