

**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.: 15-008344
Issue No.: 5001
Case No.: ██████████
Hearing Date: July 1, 2015
County: WAYNE-DISTRICT 15

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 July 1, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR), ██████████. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's State Emergency Relief (SER) application for 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 May 7, 2015, Claimant submitted an SER application for furnace repair/replacement.
2. On May 15, 2015, the Department sent Claimant an SER Decision Notice notifying her that she was not eligible for the SER request for furnace repair/replacement in the amount of \$4,200 because the contractor does not have a valid license to provide this service. See Exhibit A, p. 3.
3. On May 20, 2015, Claimant/AHR filed a hearing request, protesting the Department's action. See Exhibit A, pp. 2 and Exhibit 1, p. 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.

Preliminary matters

First, it was discovered that the Department subsequently reprocessed Claimant's SER application. On June 2, 2015, the Department sent Claimant an SER Decision Notice notifying her that her SER request for furnace repair/replacement in the amount of \$4,200 was denied because her countable income is higher than the maximum amount allowed for this program. See Exhibit A, pp. 10-11. The undersigned lacks the jurisdiction to address this subsequent denial as it occurred after Claimant's hearing request. Claimant/AHR can request another hearing to dispute the SER denial dated June 2, 2015. See BAM 600 (April 2015), p. 6 (The client or AHR has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received in the local office within the 90 days).

Second, Claimant's hearing request indicated two prior applications submitted for the SER request for furnace repair/replacement. See Exhibit A, p. 2. On April 10, 2015, Claimant's hearing request indicated that an SER request was submitted, which resulted in a denial on April 18, 2015. See Exhibit A, p. 2. Furthermore, Claimant's hearing request indicated that the Department failed to process another SER application dated April 21, 2015. See Exhibit A, p. 2. During the hearing, though, the AHR ultimately disputed the SER application dated May 7, 2015. Therefore, the undersigned will only address Claimant's SER application dated May 7, 2015, which was denied by the Department on May 15, 2015.

SER Application For Furnace Repair/Replacement

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. ERM 304 (October 2013), p. 1. SER also assists with home repairs to correct unsafe conditions and restore essential services. ERM 304, p. 1.

Covered services includes: home ownership services, energy-related home repairs, and non-energy-related home repairs. See ERM 304, p. 1. An SER application request for furnace repairs falls under the category of energy-related home repairs.

The Low Income Home Energy Assistance Program (LIHEAP) is the funding source for energy-related repairs. ERM 304, p. 2. Repair or replacement of a non-functioning furnace is currently the only allowable energy-related home repair. ERM 304, p. 2. The lifetime maximum for energy-related home repairs is \$4,000. ERM 304, p. 2. All energy-related repairs approved since January 1, 1978 count toward this maximum, including previously authorized repairs covered as energy-related home repairs. ERM 304, p. 2.

The Department issues home repair payments only if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. ERM 304, p. 4. The repair(s) must restore the home to a safe, livable condition. ERM 304, p. 4. SER does not pay for improvements or nonessential repairs. ERM 304, p. 4. ERM 304 also identifies additional conditions that must be met. See ERM 304, pp. 4-5. The amount to be authorized cannot exceed the energy-related home repair maximum of \$4,000, and the issuance amount will resolve the emergency. See ERM 304, p. 5.

Additionally, the Department obtains at least one estimate of the repair cost. ERM 304, p. 5. More may be requested, depending on case circumstances. ERM 304, p. 5. The Department approves the most cost-effective repair. ERM 304, p. 5. SER does not pay for estimates. ERM 304, p. 5.

Also, the Department approves electrical, plumbing and furnace repairs or replacements only if the contractor holds a valid license issued by the Bureau of Commercial Services at the Department of Energy, Labor and Economic Growth. ERM 304, p. 5. Verification of a license or registration may be obtained at the following Web site: <http://www7.dleg.state.mi.us/bcclicense/>. ERM 304, p. 5. Other building repairs costing over \$600 also require a licensed contractor. ERM 304, p. 5. Septic system and water well installation require only a local permit and inspection by the Department of Public Health. ERM 304, p. 5. Verification for home repairs includes a statement from provider indicating the repair will remove a direct threat to health or safety or is required by law. ERM 304, p. 7.

In this case, the AHR testified that the total cost to replace the furnace is \$4,200; however, \$2,000 would be contributed from the [REDACTED]. See Exhibit 1, p. 11. Thus, the Claimant sought the remaining \$2,200 by applying for SER assistance. In fact, on April 21, 2015, Claimant submitted a proposal estimate, which confirmed the above information. See Exhibit A, p. 12 ([REDACTED] proposal invoice dated March 25, 2015).

Nevertheless, on May 15, 2015, the Department sent Claimant an SER Decision Notice notifying her that she was not eligible for the SER request for furnace repair/replacement in the amount of \$4,200 because the contractor does not have a valid license to provide this service. See Exhibit A, p. 3. The evidence record indicated that the Department did not receive proof of valid contractor license until May 20, 2015 (the date of the hearing request). See Exhibit A, p. 4. However, Claimant's AHR argued that she attempted to provide such documentation back in April 2015, but testified that a DHHS caseworker refused to accept the documentation. See Hearing Request, Exhibit A, p. 2. Furthermore, Claimant's AHR testified that she did not receive a verification checklist requesting proof of a licensed contractor and the Department failed to present evidence if it indeed requested such verification. Moreover, policy indicates that the Department can verify a license or registration through an online website (<http://www7.dleg.state.mi.us/bcclicense/>) and the Department failed to provide evidence if it, in fact, attempted to verify the license through the online website.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (October 2013), p. 6. The due date is eight calendar days beginning with the date of application. ERM 103, p. 6. If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. ERM 103, p. 6. This does not change the standard of promptness date. ERM 103, p. 6.

The Department uses the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 6.

The client must make a reasonable effort to obtain required verifications. ERM 103, p. 6. The specialist must assist if the applicant needs and requests help. ERM 103, p. 6. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, the Department uses the best available information. ERM 103, p. 6. If no evidence is available, the specialist must use their best judgment. ERM 103, p. 6.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's SER application for furnace repair/replacement dated May 7, 2015.

First, the Department denied Claimant's application based on the contractor not having a valid license to provide the service. See Exhibit A, p. 3. However, if the Department needed such verification, then it would have been appropriate for the Department to issue a DHS-3503, SER Verification Checklist, requesting such verification. ERM 103, p. 6. But, the Department failed to present evidence that an SER Verification Checklist was issued to the Claimant requesting such documentation. Because the Department failed to satisfy its burden of showing that it requested verification of the licensed contractor, it improperly denied the SER application in accordance with Department policy. See ERM 103, p. 6.

Second, policy clearly states that verification of a license or registration may be obtained at the following Web site: <http://www7.dleg.state.mi.us/bcclicense/>. Thus, there would be no need to request an SER Verification Checklist if the Department was able to verify the licensed contractor via the web site. ERM 304, p. 5. However, the Department failed to provide evidence if it, in fact, attempted to verify the license through the online website. Thus, again, the Department failed to satisfy its burden of showing that it properly denied the SER application.

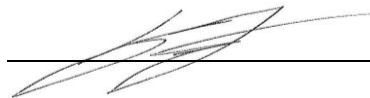
DECISION AND ORDER

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 application for furnace repair/replacement dated May 7, 2015.

Accordingly, the Department's 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. Initiate re-registration and reprocessing of Claimant's SER application for furnace repair/replacement dated May 7, 2015 as the circumstances existed at the time of application (if not already completed);
2. Issue supplements to Claimant for any SER benefits she was eligible to receive but did not from date of application (if not already completed); and
3. Notify Claimant/AHR of its SER decision (if not already completed).



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/6/2015**

Date Mailed: **7/6/2015**
EJF / cl

CC: