

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-011385
Issue No.: 5001
Case No.: [REDACTED]
Hearing Date: August 20, 2015
County: LUCE

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 20, 2015, from Lansing, Michigan. Participants on behalf of Claimant included himself and his wife [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist (ES) [REDACTED].

ISSUE

Did the Department properly deny Claimant's March 25, 2015, State Emergency Relief Program application?

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 March 25, 2015, Claimant submitted a State Emergency Relief Program application for assistance with non-energy related home repairs.
2. On March 26, 2015, Claimant was sent a State Emergency Relief Decision Notice (DHS-1419) denying the application because he had reached his non-energy related home repair lifetime cap.
3. On June 10, 2015, Claimant submitted a hearing request.
4. At this hearing the Department representative testified that no records have been found to confirm that the alleged SER non-energy related home repair funds were issued, the time period the funds were allegedly issued or what time periods that Claimant was in the household.

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 evidence submitted by the Department in this case consists of a BRIDGES record (Page 5). Investigation by the local Department office determined that the record emanated from a case number under the name of a grantee in Washtenaw County. Claimant asserts and testified that he did have a relationship with the woman in the distant past, that the relationship was fraught with conflict including her use of his identity without permission and threats of violence against him.

During this hearing the Department representative testified that she contacted Washtenaw County and requested the records to support the BRIDGES record. To date no records have been found to confirm that the alleged SER non-energy related home repair funds were issued, the time period the funds were allegedly issued or what time periods that Claimant was in the household.

State Emergency Relief Manual (ERM) 405 SER Case Record (3-1-2013) states in part:

OVERVIEW

A **case record** is a folder, with a numbered tab, established for a particular client group and containing all forms, documents and other evidence relevant to the group's current and past eligibility for all programs. A household/eligibility determination group who receives benefits from **more than one program** should have a single case record. Do not create a separate case record for each program.

All documents (including DHS forms), notices and other written correspondence regarding the group's eligibility, benefit status or benefit level must be organized into packets and filed in one case record. Case records must document **all** of the following:

Date of application.

Date and basis for disposition of the application/request.

Facts essential to the eligibility determination.

Amount or level of benefits.

Actions taken by the local office regarding the case.

Record Retention

No case record material can be removed and destroyed unless DHS policy regarding retention and disposal is met. Administrative Handbook Records Management & Warehousing (AHS) 502, Records Management, has instructions.

PACKETS

Information must be organized into packets. When a household/eligibility determination group receives benefits from **more than one program**, program-specific materials may be filed into separate packets or combined into one. An SER packet is required for all SER requests and must be filed in the group's case record.

Lifetime Limits

Payment documentation for any service that has a lifetime limit must remain in the **current** case record until the limit is no longer allowed or applicable. This includes any energy-related home repairs since January 1, 1978, all non-energy related home repairs, all information regarding previous liens from 1994 - 1997, all unpaid repayment agreements and all home ownership services.

The Department submitted circumstantial evidence that Claimant was not eligible due to meeting the life time cap. Claimant refuted the circumstantial evidence. At that point the burden shifts back to the Department to present direct evidence in support of their action. ERM 405, cited above, requires the Department to retain the records which would be direct evidence. The Department failed to present direct evidence to support their proposed action. 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 March 25, 2015, State Emergency Relief Program 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. Reregister Claimant's March 25, 2015, State Emergency Relief Program application and process it in accordance with Department policy.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/31/2015**

Date Mailed: **8/31/2015**

GFH / 

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:

