

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-1714
Issue No.: 5016
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 25, 2010
Oakland County DHS(2)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on August 25, 2010. The claimant appeared and testified. [REDACTED] FIM and [REDACTED] Case Manager appeared on behalf of the Department.

ISSUE

Whether the Claimant entitled to a hearing as to whether SER funds which were authorized and paid to the Claimant should have been paid by the Department out of the prior fiscal year ending September 30, 2009 instead of the current fiscal year ending September 30 2010?

FINDINGS OF FACT

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

1. The Claimant applied for SER in July 2009 and was advised that she had to pay \$2179 in back [REDACTED] electric bills before the Department would approve her SER in the amount of \$550. Exhibit 1
2. The Department's decision was based upon [REDACTED] decision that it would not accept \$550 to stop the shut off of [REDACTED] services. Exhibit 1
3. The Claimant did not pay the back bill amount.

220101714/LMF

4. The Claimant reapplied for SER on September 29, 2009 for electric bill and heat assistance and was approved for \$550 and \$170 respectively. Exhibit 2
5. The department processed the approval for payment by authorization/ Invoice, DHS 849 on September 30, 2009 and the bill was paid on October 5, 2010. Exhibit 3
6. The Claimant seeks a hearing to review the fact that the funds authorized for SER relief were counted towards the current fiscal year. Which began October 1, 2009 and ends September 30, 2010.
7. The Claimant requested a hearing on March 30, 2010 protesting that the SER payment counted towards her 2010 SER relief cap instead of 2009 SER relief cap. The Claimant asserts that she should have been entitled to use SER funds from the fiscal year ending October 1, 2008 and ending September 30, 2009 thereby having more SER funds available to her.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400-7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the State Emergency Relief Manual (SER).

The Claimant seeks review by way of a hearing of the fact that the funds for SER electric and heating relief were counted towards the current fiscal year rather than counted from the prior fiscal year. The Department counted the SER payments they made as funded and applied to the cap in the current fiscal year because that is when the payments were made.

The Claimant requested a hearing protesting the fact that the SER payments, \$550 for electric and \$170 for heat counted against her cap and were credited to her SER limit for fiscal year beginning October 1, 2009, rather than the prior fiscal year beginning October 1, 2008. The Claimant asserts that charging the SER relief payments to the next fiscal year reduced the overall amount available to her for SER relief. Essentially she argues the Department reduced the amount of her emergency relief in total because she did not have access to both fiscal year's available allotments.

As of the hearing, the Claimant had a balance available for the current fiscal year of \$210 in SER emergency relief available after the Department authorized payments to [REDACTED] (\$550) and [REDACTED] (\$170). SER relief in this amount is available to be applied for through September 30, 2010. The Claimant at the time of the hearing had not

320101714/LMF

applied for further SER relief and thus had not been denied relief. Because no relief has been denied, there is no issue for review as a result of a Department action.

BAM 600 governs the circumstance under which a client is entitled to a hearing.

The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

The action being taken by the department; **and**
The reason(s) for the action; and
The specific manual item(s) that cites the legal base for an action, or the regulation, or law itself. See BAM 220.

In this case no notice of case action was required or issued when the Department paid the Claimant's request for SER relief pursuant to the Claimant's 9/30/09 application as the Claimant applied for and received SER benefits as requested. The department followed its usual procedures and granted the emergency relief.

SOAHR may grant a hearing about any of the following:

Denial of an application and/or supplemental payments.
Reduction in the amount of program benefits or service.
Suspension or termination of program benefits or service.
Restrictions under which benefits or services are provided.
Delay of any action beyond standards of promptness.
For **FAP only**, the current level of benefits or denial of expedited service. BAM 600 page 3.

Claimant's complaint does not fit any of the above circumstances for which a hearing should be granted. Thus there is no jurisdiction to determine whether the DHS should have applied an SER payment in 2009 or 2010. The issue may be ripe if claimant reapplied for SER and is limited in benefits because of when the prior SER payments were made.

Until the Claimant applies for additional SER relief and is denied the full amount of relief requested (assuming the Claimant is otherwise eligible and her request exceeds the current cap) there is no basis for the Claimant to request a hearing. If the Claimant applies for SER benefits and is only paid the \$210 remaining and is denied further SER relief because the SER payments made to date came out of this fiscal year, only then will the issue that she should have full funds available for the current fiscal year for SER relief be ripe for review.

It must also be noted that the Claimant was given what she asked for at the time of her application which was emergency relief.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the Claimant's request for hearing must be DISMISSED as there is no action by the Department which is subject to appeal and hearing at this time.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 9/2/2010

Date Mailed: 9/2/2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

LMF/jlg

cc:

