

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.: 2010-35597
Issue No.: 5006
Case No.: [REDACTED]
Hearing Date: January 10, 2011
DHS County: Wayne (82-57)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on January 10, 2011. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Claimant's request for State Emergency Relief (SER) utility assistance?

FINDINGS OF FACT

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

1. On February 23, 2010, Claimant applied for SER to avoid a shutoff of water and sewerage services.
2. Claimant has a household of two persons and a combined income of \$798.
3. DHS correctly calculated Claimant's income need standard as \$500 for a family of two persons.
4. DHS correctly calculated that \$298, which is the remainder of Claimant's income, is available as a co-payment on Claimant's Detroit Water and Sewerage Department bill.

5. Claimant did not pay this amount to the Detroit Water and Sewerage Department.
6. On February 25, 2010, DHS denied Claimant's SER application because she did not pay \$298 to the Detroit Water and Sewerage Department.
7. On March 1, 2010, Claimant filed a notice of hearing request with DHS.

CONCLUSIONS OF LAW

SER was established by 2004 Michigan Public Acts (PA) 344. SER is administered pursuant to MCL 400.10 *et seq.*, and by Michigan Administrative Code Rules 400.7001-400.7049. DHS policies are found in the Emergency Relief Manual (ERM). This manual is available online at www.michigan.gov/dhs-manuals.

The administrative manuals are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now in order to see what policy applies in this case. After setting forth what the applicable policies are, I will examine whether they were in fact followed in this case.

Looking first at the authorities DHS cited to me in the Hearing Summary, I will review ERM Item 103, "Application Procedures." Item 103 states that if the customer's copayment is more than the amount that is needed to resolve the emergency situation, DHS may deny the application.

I find and conclude that this is exactly what occurred in this case. I find and conclude that the copayment is \$298, and this is a higher amount than \$175, the amount that the Water Department will accept to avoid the shutoff. Because the copayment is more than the minimum payment, there is a difference, or shortfall, between the two amounts. When a shortfall exists, as it does in this case, DHS can decide that its payment of \$175 on this one occasion will not prevent the emergency from recurring because the customer's income is not sufficient to keep up the payments.

I find and determine that this formula is the standard DHS formula applied in all cases and that it has been applied correctly in this case. DHS' action is AFFIRMED, and DHS need take no further action in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, determines and concludes that DHS is AFFIRMED in this case. IT IS ORDERED THAT DHS need take no further action in this case.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 18, 2011

Date Mailed: January 20, 2011

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.

JL/pf

cc:

