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.: 2011-11752
Issue No.: 5006
Case No.: [redacted]
Hearing Date: January 24, 2011
Wayne County DHS (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 January 24, 2011. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [redacted], Specialist, and [redacted], Manager, appeared and testified.

ISSUE

Whether DHS properly calculated Claimant's eligibility for State Emergency Relief (SER) as a $700 approval subject to a $2399.15 copayment by Claimant.

FINDINGS OF FACT

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

1. On 10/28/10, Claimant applied for SER requesting assistance with her electricity and heat bill.

2. Claimant submitted a combined heat and electric bill indicating that $1985.49 must be paid to stop a threat of shut-off.

3. DHS determined that $3099.15 was the amount needed to stop a shut-off.

4. DHS issued an SER approval indicating that Claimant is approved for a $700 SER payment subject to a client copayment of $2399.15.

5. Claimant had until 12/30/10 to pay the $2399.15 copayment and to report the payment to DHS.

6. Claimant did not verify or report any payments toward her [redacted] bill by 12/30/10.

7. DHS did not pay the $700 toward Claimants energy bill.

8. On 12/4/10, Claimant requested a hearing disputing the SER decision.

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 Emergency Relief Manual (ERM).

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization.

An SER payment must resolve the emergency by restoring or continuing the service for at least 30 days. ERM 301 at 1. Specialists are to approve payments up to the fiscal year cap if it will resolve the emergency and if the energy provider will maintain or restore service for at least 30 days. Id at 8. Specialists are to not authorize any energy services payment that will not resolve the current emergency, even if the payment is within the fiscal year cap. *Id.*

In the present case, the only evidence establishing the amount to prevent shut-off of Claimant's energy service is Claimant's [redacted] bill. The [redacted] bill states, "Please pay $1985.49 before November 1, 2010 to avoid shut-off." Based on the clear statement from [redacted] the undersigned is inclined to find that $1985.49 was the proper amount to stop Claimant's shut-off threat.

DHS budgeted $3099.15 as the amount to stop the shut-off. Based on the $700 approved payment, the $3099.15 amount created a $2399.15 copayment by Claimant to be paid by 12/30/10. Had DHS budgeted the proper shut-off amount, Claimant would have had a $1285.49 copayment to make by 12/30/10. The evidence showed that even if the lesser amount was budgeted, Claimant did not make a sufficient copayment which would have resulted in a $700 payment by DHS. Accordingly, the DHS decision is affirmed though DHS did not properly budget the proper shut-off amount.

The undersigned has personal knowledge that [redacted] previously agreed that any payment by DHS through SER would stop a shut-off for a 30 day period. This is an agreement

which is not reflected within DHS regulations so the undersigned can make no findings concerning its current relevance. DHS gave testimony that a policy analyst informed DHS that it was improper for DHS to consider a lesser amount than the past due amount as the amount to resolve the emergency. Since the policy analyst's interpretation, DHS stated that they stopped using the SER fiscal year cap amount as the amount to stop the shut-off and began to use the past due amount (plus current charges) as the amount to prevent an energy shut-off.

There are two issues to be noted by this. First, based on a literal reading of DHS regulations, the policy analyst interpretation of SER policy cannot be correct. If [redacted] is willing to accept any SER payment to stop a shut-off threat for 30 days, then DHS regulations clearly require using the fiscal year SER cap as the amount to stop the shut-off. There is no reasonable alternative interpretation for this policy. Secondly, if DHS refuses to acknowledge an agreement with [redacted] that an SER payment will stop a shutoff threat, Claimant can reapply for SER and possibly be considered for a lower amount to stop the shut-off by obtaining a statement from [redacted] indicating that a lesser amount than the past due amount would be accepted. Though the undersigned suspects DHS relied on an improper policy interpretation to determine the amount to stop Claimant's energy shut-off, the presented evidence does not support reversing the previous DHS decision.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's eligibility for SER as an approval for $700 subject to a copayment. Though the copayment amount was calculated incorrectly, Claimant did not make a sufficient copayment toward the energy bill to alter the previous SER decision. The actions taken by DHS are AFFIRMED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 1/31/2011

Date Mailed: 1/31/2011

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.

CG/jlg

cc: [redacted]