

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

IN THE MATTER OF:



Reg. No.: 201144423
Issue No.: 5013; 5026
Case No.: [REDACTED]
Hearing Date: October 3, 2011
County: Oakland (4)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on October 3, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included Corliss Tripp, Supervisor.

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with shelter emergency?

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 July 28, 2010, Claimant applied for SER assistance with shelter emergency.
2. On August 25, 2010, the Department sent notice of the application denial to Claimant.
3. On August 30, 2010, the Department received Claimant's hearing request, protesting the SER denial.

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, 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Additionally, a SER application must be processed within ten calendar days of the date the Department receives the signed SER application, and, if the application is approved, the Department must give the client a thirty day period of eligibility, beginning on the date of application, to establish her compliance with any payment terms in the Department's decision. ERM 103. The Department may authorize its portion of the cost of services only after it verifies that the client has paid her income copayment. ERM 130.

In this case, on July 28, 2010, Claimant applied for SER assistance to pay a security deposit of \$499 for new housing. On August 25, 2010, the Department sent Claimant a SER Decision Notice notifying her that it would pay \$80 towards the deposit if she provided proof of paying the remaining \$419 income/asset copayment by August 26, 2010. Claimant testified that she did not receive the Notice until August 26, 2010, when the time for her to comply had already expired. Because Claimant was not given any time to comply with the payment terms in the SER notice, the notice sent by the Department was not sent in accordance with Department policy.

Claimant also challenged the Department's calculation of her income copayment. A client's income copayment is determined by subtracting the SER group's monthly net income in the 30-day countable income period from the SER group's income need standard for non-energy services. ERM 208; ERM 206. The income need standard for Claimant's group size of three is \$625. ERM 208.

In this case, Claimant agreed with the Department's finding that she received \$620 in Retirement, Survivors, and Disability Insurance (RSDI) monthly gross benefits for herself, \$123 in RSDI monthly gross benefits for her daughter Zaria, \$123 in RSDI monthly gross benefits for her son Zavier, and \$378.45 in monthly child support for Zaria. However, the Department was unable to produce a SER budget showing how it calculated Claimant's net unearned income in accordance with ERM 206 or how it determined her income copayment based on this net unearned income. While the Department testified that it had used a \$992 gross monthly income figure in calculating Claimant's income copayment, using that figure would result in an income copayment of \$367, not \$419 as indicated in the August 25, 2010 SER Decision Notice. Thus, the Department failed to satisfy its burden of proof of showing how it calculated Claimant's income copayment.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly denied improperly denied

Claimant's SER application for assistance with shelter emergency.


DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did act properly. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Remove the negative case action denying Claimant's request for SER benefits for relocation services;
2. Recalculate Claimant's income copayment in accordance with Department policy; and
3. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 10/10/11

Date Mailed: 10/10/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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 receipt 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:

- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
- the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/dj

cc:

