

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-51118
Issue No.: 5016
Case No.: [REDACTED]
Hearing Date: September 6, 2012
County: Oakland (63-04)

ADMINISTRATIVE LAW JUDGE: Kathleen H. Svoboda

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 September 6, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her daughter, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with energy or utility service(s)?

FINDINGS OF FACT

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

1. In April 2012, Claimant applied for SER assistance with gas and electric services payments.
2. On April 30, 2012, the Department sent notice of the application denial to Claimant.
3. On May 2, 2012, 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).

Claimant requested assistance with both her electricity services and her natural gas services. Claimant confirmed monthly net unearned income amounts of \$1,176.00 from Retirement, Survivors Disability Income and \$612.21 from her pension through [REDACTED]. In addition, for the month of application, Claimant reported \$186.50 as gross earned income from her job as a home health care worker for [REDACTED]. This amount varies month to month depending upon Claimant's scheduled work hours.

The hearing summary read into the record by the Department representative states that

“The application was denied because the countable income that [REDACTED] receives exceeded the amount required for the SER program.”

If ERM (2011) 206 and 208 are properly applied by the Department, the mathematic calculation reveals that Claimant's countable income falls below the LIHEAP standard of a group size of one, which is \$1,909.00. Thus, Claimant's countable income would not exceed the amount required for the SER program. Also, the budget submitted by the Department and admitted as part of Exhibit A does not reflect a deduction for Claimant's Medicare B payment of \$99.90. The Department representative was not able to explain the budget computation that originated through Bridges. The Department representative was not able to explain the Income Need Standard of \$445.00 that was used in the budget calculation in this case, but which is related to non energy-related services.

Also, the Department's denial of Claimant's application rests, in part, on the failure of Claimant to make payments in the last six months as stated in the hearing summary. However, the hearing summary, in fact, reflects that a payment for the month of April 2012 was made for services and, specifically for DTE Energy, Claimant made payments in January and April of 2012. ERM 301 requires a determination regarding good cause related to the nonpayment of energy-related services for the six-month period preceding the application. The Department failed to address the good cause issue.

The Department has failed to sustain the burden of proof that the action taken is proper. Bridges Assistance Manual 2012 (BAM). The Department representative was unable to explain the budget calculation. The deductions used were incomplete and no explanation was available. Based upon the failure of the Department to provide evidence by a preponderance that the action taken was supported by policy, the determination to deny Claimant's application for SER assistance is reversed and the Department is ordered to initiate reprocessing of the application.

Based on the above Findings of Fact and Conclusions of Law, and for reasons stated on the record, the Administrative Law Judge concludes that the Department properly denied improperly denied Claimant's SER application for assistance with energy and utility services.

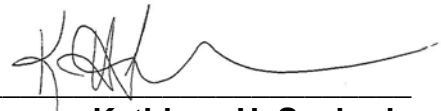
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for 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. Initiate reprocessing Claimant's application for SER services, providing a complete budget calculation using the appropriate information from Claimant and pursuant to ERM policy provisions.



Kathleen H. Svoboda
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 12, 2012

Date Mailed: September 12, 2012

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:

2012-51118/KHS

- 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

KHS/pf

cc:

