

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201271316
Issue No.: 5020
Case No.: [REDACTED]
Hearing Date: March 14, 2013
County: Wayne (31)

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 March 14, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

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. On July 30, 2012, Claimant applied for SER assistance with energy or utility service.
2. On August 8, 2012, the Department sent notice of the application denial to Claimant.
3. On August 15, 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 Mich Admin Code,

Rules 400.7001 through 400.7049. Department policies are found in the Department of Human Services State Emergency Relief Manual (ERM).

Additionally, on July 30, 2012, Claimant applied for SER assistance with his outstanding gas and electrical bills. The Department testified that it sent Claimant an August 8, 2012 SER Decision Notice, denying the application on the basis that Claimant's group's income exceeded the income limit for SER assistance for energy and utility services.

Heat and electrical services are energy services. See ERM 301 (May 1, 2012), p 1. For a group to be eligible for energy services, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period cannot exceed the standard for SER energy/LIHEAP services for the number of group members. ERM 208 (October 1, 2008), p 1; ERM 301, p 3. For Claimant's group size of two (consisting of Claimant and his wife), the applicable income limit is \$2496. ERM 208, p 4. If the income exceeds the limit, the request must be denied. ERM 208, p 1.

Net RSDI income and pension and retirement benefits are considered in the calculation of a client's income for SER eligibility purposes. ERM 206 (October 1, 2011), p 1. Net unearned income is determined by deducting any mandatory withholding taxes, court-ordered child support, health insurance payments, and Medicare premiums that will not be reimbursed, from the gross benefits.

In this case, the Department testified that Claimant's group's monthly income consisted of Claimant's monthly Retirement, Survivors and Disability Insurance (RSDI) benefits of \$221, Claimant's monthly pension of \$2688.60 and Claimant's wife's monthly pension of \$1063.93. Because Claimant verified that his group *received* benefits in the amounts indicated, the amounts considered appear to be the net unearned income. Because the sum of Claimant's group's net income is more than \$1000 over the SER energy/LIHEAP income limit of \$2496, the Department acted in accordance with Department policy when it denied Claimant's SER application for heat and gas services.

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

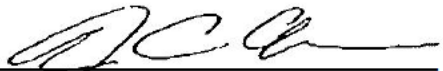
properly denied improperly denied
Claimant's SER application for assistance with energy and utility services.

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 above and on the record.


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

Date Signed: 3/25/2013

Date Mailed: 3/25/2013

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/hw

cc:

