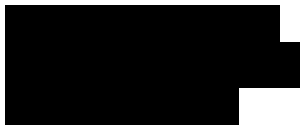


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201229432
Issue No: 5016
Case No: [REDACTED]
Hearing Date: April 25, 2012
Genesee County DHS #2

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received on November 24, 2009. After due notice, a telephone hearing was held on April 25, 2012. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny Claimant's State Emergency Relief (SER) application for assistance with his water bill?

FINDINGS OF FACT

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

1. The claimant applied for SER assistance for his water bill on November 8, 2011.
2. The claimant was assigned a co-pay amount based on the November 8, 2011 application.
3. The department did not receive verification of the co-pay amount being paid and in turn denied the claimant's SER application.
4. The claimant submitted a second SER application for assistance with his water bill on December 1, 2011.
5. The claimant was again assigned a co-pay amount with a due date of December 30, 2011 to show verification of the co-payment being made.

6. The department never received verification of the co-payment being made and in turn, denied the claimant's SER application.
7. The claimant filed a hearing request on January 13, 2012, protesting the denial of his SER application.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 (DHS or department) policies are found in the Emergency Relief Manual (ERM).

State Emergency Relief prevents serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101.

SER is available to assist individuals in need with utility services. In relation to utility services, department policy states as follows:

SER helps to restore or prevent shut off of a utility service specified in this item when service is necessary to prevent serious harm to SER group members.

Covered Services

The following are covered utility services:

- Payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. The payment must restore or continue service for at least 30 days at the current residence. However, payments for current charges are not allowed.
- A deposit (including membership fees and lease/rental payments for an on-site storage tank) required by the utility provider to begin, maintain, or

restore one of the following services currently or previously the responsibility of the SER group: water, sewer and cooking fuel.

- Fees for connection, reconnection, or hookup of utility services.

The bill does not have to be in the client's name but it must be connected to the group's current address. If the bill, including old or transferred balances, must be paid to start or maintain service at the current or new address, payment may be authorized up to the fiscal year cap as long as the payment resolves the emergency. ERM 302.

If a claimant otherwise meets all eligibility standards, they may be required to make a contribution to the amount of the requested service based on their income before the department will issue a payment. ERM 208. Department policy states:

Client Contribution

The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. Other persons or organizations can also contribute funds on behalf of the SER group. Verification that the contribution has been paid must be received before any SER payment can be made. ERM 208.

In relation to assistance with utility services, policy further states:

Authorizations

Before authorizing the department's portion of the cost of services, verify that the income and asset copayment, shortfall, and contribution have been paid by the client or will be paid by another agency. Approve payment up to the fiscal year cap if it will resolve the emergency and if the provider will maintain or restore service for at least 30 days. Do not authorize any payment that will not resolve the current emergency, even if the payment is within the fiscal year cap. Payments are applied to the cap of the client. Client means the applicant for or recipient of SER and includes all group members. Every individual in the group who benefits from the payment, including minor children, will have payments applied to their individual cap. The payments made to cap follow the individual even if they move from one household to another. ERM 302.

In the case at hand, the claimant was assigned a copayment after his first application. The department representative testified that the claimant was sent notice of this payment and that verification of said payment was due back by November 23, 2011 in order for the department to authorize the SER utility payment. Because the department did not receive verification of the co-payment being made by the claimant, the

claimant's application was denied. The claimant then submitted a second application and was again assigned a co-payment amount. This co-payment amount was higher than the co-payment assigned after the initial application because subsequent to the first denial, the water department then demanded payment of the bill in full for restoration of services.

The claimant testified that he did not receive the original co-payment notice and that is why he did not make the payment. He testified that he learned of the notice from speaking to a supervisor at the department and that this conversation prompted his second application. The claimant testified that he was not able to make the second co-payment amount but that he would have made the amount of the initial co-payment. The issues at hand involve the receipt of the original notice of co-payment, as the claimant does not contest that the second co-payment was not made. Michigan follows the common law presumption that a letter mailed is presumed received by the addressee. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). "Moreover, the fact that a letter was mailed with a return address but was not returned lends strength to the presumption that the letter was received." *Id* at 276. The claimant did not provide any evidence to rebut the presumption that the initial notice of co-payment was received with the exception of his testimony. Accordingly, the presumption is that the notice was received and that the required co-payment was not made. As there is no contention that the co-payment was not made, the department acted properly in accordance with policy in denying the claimant's SER application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted properly in accordance with policy in denying the claimant's SER application.

Accordingly, the department's actions are **AFFIRMED**.

It is SO ORDERED.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 21, 2012

Date Mailed: May 21, 2012

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 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.

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