

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201249275
Issue No.: 5016
Case No.: [REDACTED]
Hearing Date: August 27, 2012
County: Wayne (43)

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 August 27, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's counsel. Participants on behalf of Department of Human Services (Department) included [REDACTED], Family Independence Manager.

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 March 16, 2012, Claimant applied for SER assistance with energy or utility service.
2. On March 19, 2012, the Department sent a SER Decision Notice agreeing to pay \$450 towards Claimant's outstanding electric bill upon Claimant's payment of \$628.64 and \$450 towards Claimant's outstanding gas bill upon Claimant's payment of \$2724.66 by April 13, 2012.
3. On May 1, 2012, the Department received Claimant's hearing request, protesting the SER Decision Notice.

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 Department of Human Services State Emergency Relief Manual (ERM).

Additionally, on March 19, 2012, the Department sent Claimant a SER Decision Notice agreeing to pay (i) \$450 towards Claimant's outstanding non-heat electrical bill upon Claimant's verification of payment of a \$628.64 copayment/contribution/shortfall and (ii) \$450 towards Claimant's outstanding gas bill upon Claimant's verification of payment of a \$2724.66 copayment/contribution/shortfall. Claimant was required to make her payment by April 13, 2012.

At the hearing, Claimant contended that she had timely made her required payment for her copayment/contribution/shortfall when she entered into a payment arrangement with DTE. A client's payment arrangement with an energy provider may serve to establish that the client has paid any required shortfall and/or contribution. ERM 301 (October 1, 2011), pp 3, 8; See also ERM 401 (October 1, 2011), p 2. At the time of Claimant's SER application on March 16, 2012, Department policy provided that if the client entered into a payment agreement with the energy provider, a signed copy of the agreement was acceptable as verification of payment and a copy should be placed in the case record. ERM 301, p 3. Thus, at the time of her SER application, Claimant was required to submit a copy of the payment agreement to verify that she had made her required copayment. Because there was no evidence that Claimant submitted a copy of the payment agreement to the Department prior to the April 13, 2012 due date, the Department acted in accordance with Department policy when it did not pay the amounts it agreed to pay in the March 19, 2012 SER Decision Notice.

While ERM 301 was revised on April 1, 2012, to provide that an electronic verification from the provider or the provider's secured website, indicating that the client has entered into a payment agreement, is acceptable verification that the client copay has been met, the change in policy had not taken effect at the time Claimant applied for SER assistance. ERM 301 (April 1, 2012), p 3. Further, in this case, the Department testified that it was not advised by Claimant prior to April 13, 2012, that she had entered into a payment agreement with DTE, and Claimant admitted that she had not notified the Department of this arrangement. While the revised-ERM 301 allows the Department to *verify* information concerning a payment agreement by accessing the energy provider's website, it does not, contrary to Claimant's argument, require that the Department bear the burden of searching for a verification of a payment even when it has not been notified that a payment has been made. ERM 103, the general SER application policy provision, provides that the SER Decision Notice must inform the SER group of the amount it must pay and the due date for returning proof of payment. ERM 103 (October 1, 2011), p 4. It also provides that no SER payment will be made unless verification of a client's payment is received in the local office within the 30-day eligibility period or and the client must reapply. ERM 103, pp 3-4. These policy provisions

indicate that the client continues to bear the burden of notifying the Department that a copayment has been made. ERM 102 (May 1, 2009), p 1, which provides that a SER applicant must cooperate with providing verifications, supports this interpretation of policy. Therefore, even if the revised policy was applicable in Claimant's case, the Department nonetheless acted in accordance with Department policy when it did not make its payment when Claimant did not advise the Department prior to April 13, 2012 that she had entered into a payment agreement with her energy provider.

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: September 11, 2012

Date Mailed: September 11, 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:

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- 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:

