

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

IN THE MATTER OF:



Reg. No.: 201314563
Issue No.: 5006
Case No.: [REDACTED]
Hearing Date: April 3, 2013
County: Wayne DHS (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on April 3, 2013 from Detroit, Michigan. Participants included the above-named claimant. [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of Department of Human Services (DHS) included [REDACTED] Manager.

ISSUE

The issue is whether DHS properly denied Claimant's application for State Emergency Relief (SER).

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 11/8/12, Claimant applied for SER for assistance with a \$1587 rent arrearage.
2. At the time of Claimant's application, Claimant had \$1606/month in household income.
3. At the time of Claimant's application, Claimant's rent was \$186/month.
4. In the six prior months, Claimant verified a \$366 rental payment.
5. On 11/14/12, DHS denied Claimant's SER application due to the income copayment plus shortfall exceeding the amount of rent requested.

6. On 11/19/12, Claimant requested a hearing to dispute 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 final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization. The present case concerned a rent arrearage.

The present case concerns an SER application denial based on Claimant's income copayment and shortfall exceeding the amount requested. It was not disputed that Claimant requested SER for a rent arrearage of \$1586.

A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in SER Income Need Standards for Non-Energy Services. ERM 208 (8/2012), p. 1. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. *Id.* This is the income copayment. *Id.*

Based on Claimant's household size of 5, the income need standard for non-energy services is \$885. *Id.*, p. 4. It was not disputed that Claimant's household income was \$1606. Thus, Claimant has an income copayment of \$721, the same amount as calculated by DHS (see Exhibits 1-2).

If an application is made for shelter, heat, electricity or utilities, a determination of required payments must be made. *Id.*, p. 3. Required payments are determined based on the group size, the group's income and the obligation to pay for the service that existed during each month of the six months prior to application. *Id.* If the client failed without good cause to make required payments, a short fall amount is determined. *Id.* The client must pay the shortfall amount toward the cost of resolving the emergency. *Id.*

Claimant testified that her rent was \$186/month in the six months prior to her application. DHS did not dispute the amount, though DHS budgets verify that the rent was thought to be \$177/month. There was no dispute that Claimant had no good cause for not paying rent because her income (\$1606) exceeded the income limit for good

cause (\$285). There was a dispute as to how much rent that Claimant paid in the six months prior to her application date.

DHS determined Claimant's SER eligibility based on Claimant making no rent payments in the six months (5/2012-10/2012) prior to the application (see Exhibit 3). Presumably, DHS would normally base a client's payment history on either what Claimant reported in the application or based on a subsequently obtained payment history. DHS provided evidence of neither.

Claimant presented several copies of money orders to show her payment history. The money orders failed to verify any rent payments from 5/2012-10/2012. Claimant testified that she paid her rent in each of the months prior to her application date. The testifying DHS manager wisely inquired how Claimant could owe a \$1586 balance if Claimant's payment history was as strong as Claimant alleged. Claimant responded that she does not really owe the landlord any money because she's made all of her monthly payments. By itself, Claimant's testimony was not particularly credible. Claimant was given an additional day to fax verification of her payment history. Claimant failed to submit the verification. During the hearing, Claimant presented a document (Exhibits 5-6) verifying a \$366 rental payment from 10/2012. Based on the presented evidence, it is found that Claimant made a \$366 payment in the prior six months.

Claimant owed \$1116 in rent over 5/2012-10/2012. Claimant verified a \$366 rent payment. Based on the presented evidence, it is found that Claimant's shortfall is \$750.

Adding Claimant's shortfall (\$750) and income copayment (\$721) results in a total copayment of \$1471. This is slightly less than the amount requested. Technically, DHS erred in denying Claimant's application.

Had DHS properly processed Claimant's application, Claimant would have been eligible for a \$116 SER payment subject to a \$1471 copayment, if paid within 30 days of Claimant's application date. Claimant's payment history verified that Claimant paid \$366 in rent in the 30 days following her application date. It is theoretically possible that Claimant would have paid \$1471 in rent if DHS made the proper SER decision. Under the present circumstances, it is unlikely. Accordingly, it is found that DHS improperly denied Claimant's SER application but that Claimant is not entitled to SER from the improper processing. Claimant's proper remedy is to reapply for SER benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's SER application, but that Claimant is not entitled to any remedy due to her failure to make a sufficient copayment in the 30 days prior to her application date.

The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/10/2013

Date Mailed: 4/10/2013

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. (60 days for FAP cases)

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

CG/hw

cc:

