

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-30882
Issue No.: 5100
Case No.: [REDACTED]
Hearing Date: May 29, 2013
County: Wayne (82-35)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 May 29, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. 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 services?

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 February 4, 2013, Claimant applied for SER assistance for energy services.
2. On February 5, 2013, the Department sent notice of the application denial to Claimant. Exhibit 2.
3. On February 13, 2013, the Department received Claimant's hearing request, protesting the SER denial. Exhibit 1.

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).

Low-income households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (February 2013), p. 1. When the group's heat or electric service for their current residence is in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301, p. 1. The amount of the payment is the minimum necessary to prevent shutoff or restore service, up to the fiscal year cap. ERM 301, p. 1.

There are no income copayments for SER energy services. ERM 208 (October 2012), p. 1. With respect to income, clients are either eligible or they are not. ERM 208, 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/Low Income Home Energy Assistance Program (LIHEAP) services for the number of group members. ERM 208, pp. 1 and 4. If the income exceeds the limit, the request must be denied. ERM 208, p. 1; see Exhibit II, SER Income Need Standards for Energy Services, p. 4.

The Department establishes the SER countable income period and determines the SER group's net countable income based on the application date and entry of income information in the data collection screens. ERM 206 (October 2011), p. 1. The SER budget computation period is 30 days. ERM 206, p. 1. This is referred to as the countable income period. ERM 206, p. 1. The first day of the countable income period is the date the local office receives a signed application for SER. ERM 206, p. 1. The Department considers unearned income for the countable income period. ERM 206, p. 1. Unearned income includes unemployment benefits. ERM 206, p. 1.

In this case, on February 4, 2013, Claimant applied for SER assistance for energy services. It was not disputed that Claimant was a group size of one. Exhibit II, SER Income Need Standards for Energy Services, states that a group size of one cannot exceed \$1,397 in the 30-day countable income period. ERM 208, p. 4. The Department testified that the 30-day countable income period for Claimant ended March 5, 2013. Thus, at the time of application, the Department testified that it anticipated that Claimant would receive three unemployment benefit payments in the amount of \$650. The anticipated payment dates were February 4, 2013; February 18, 2013; and March 4, 2013. Claimant agreed with these payment dates. The Department testified that the total of the three unemployment payments received by Claimant would be \$1,950. Thus, the Department concluded that Claimant exceeded the \$1,397 income period and denied Claimant's SER application on February 5, 2013. Exhibit 2.

At the hearing, Claimant testified that the Department used the incorrect payment amounts in the calculation of his unemployment income. Claimant testified that \$650 was his gross unemployment payment amount. Claimant testified that after his deductions, he only received approximately \$557 in net unearned income from his

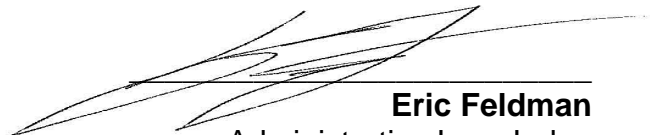
unemployment benefits. Nevertheless, the Department properly denied Claimant's SER application. Claimant agreed with the three unemployment payment dates. Claimant's three payment dates all occurred within the 30-day countable income period. Even if the Department considered Claimant's combined monthly net income to be \$1,671 (\$557 times Claimant's three unemployment payments), his monthly net income amount still exceeds the \$1,397 standard for SER energy/LIHEAP services for a group size one. ERM 208, pp. 1-4. Thus, the Department properly denied Claimant's SER application in accordance with Department policy because Claimant's income exceeded the SER energy/LIHEAP income requirements. ERM 206, pp. 1-4; ERM 208, pp. 1-4; and ERM 301, p. 1.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for reasons stated above and 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.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 10, 2013

Date Mailed: June 11, 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:

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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 affect the substantial rights of the claimant:
- 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

EJF/pf

cc:

