

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

**IN THE MATTER OF:**



Reg. No.: 201332609  
Issue No.: 5006  
Case No.: [REDACTED]  
Hearing Date: June 6, 2013  
County: Oakland DHS (04)

**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, a telephone hearing was held on June 6, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUE**

The issue is whether DHS properly denied Claimant's application for State Emergency Relief after Claimant submitted proof of a required copayment.

**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 10/15/12, Claimant applied for SER to prevent an eviction.
2. On 10/25/12, DHS mailed Claimant notice of an SER approval of \$620, subject to Claimant first paying \$1031.58 by 11/13/12.
3. Prior to 11/13/12, Claimant submitted proof of payments to her landlord of \$414 and \$992.
4. DHS failed to process Claimant's SER despite Claimant's proof of payments.
5. On 2/22/13, Claimant requested a hearing to dispute the failure by DHS to process Claimant's SER approval.

### **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. DHS (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

Claimant requested a hearing to dispute an alleged failure by DHS to fulfill an SER approval. DHS made a procedural argument that Claimant's hearing request was untimely.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (4/2011), p. 4. The request must be received anywhere in DHS within the 90 days. *Id.*

Claimant requested a hearing on 2/22/13. DHS issued an SER decision on 10/25/12. If Claimant's disputed the SER decision, then Claimant's hearing request would have been untimely. Instead, Claimant disputed the failure by DHS to process the decision. DHS did not present evidence that a written notice of case action was sent to Claimant stating that Claimant failed to verify proof of her copayment. Without a written notice, then the 90 day time period for Claimant to request a hearing does not begin to run. Accordingly, Claimant's hearing request was timely.

It was not disputed that DHS approved Claimant for SER in the amount of \$620 if Claimant paid and verified a payment of \$1031.58 by 11/13/12. Claimant brought documentation to the hearing in an attempt to verify that she made her copayment prior to 11/13/12. DHS conceded that Claimant verified making her required copayment by the deadline.

DHS contended that Claimant failed to report making the copayment to DHS by 11/13/12. If the SER group meets all eligibility criteria but has a copayment, shortfall or contribution, DHS is to not issue payment until the client provides proof that their payment has been made or will be made by another agency. ERM 208 (10/2012), p. 3.

Claimant testified that she submitted a copy of a money order to DHS on approximately 10/25/12. Claimant also testified that she brought a payment ledger from her landlord to DHS after the payment cleared. Claimant's testimony was detailed and credible. The only evidence DHS presented in support that Claimant did not report a payment came from a manager who testified that Claimant's case file did not contain Claimant's alleged submission. Generally, a client that can verify a substantial SER copayment was timely made, is going to timely submit proof of the payment to DHS.

Based on the presented evidence, it is found that Claimant timely submitted proof of her copayment to DHS. Accordingly, the failure by DHS to process the SER was improper.

Despite the finding, DHS contended that Claimant's SER payment should be less than the promised \$620.

It was not disputed that Claimant made payments to her landlord for \$414 on 11/2/13 and for \$992 on 11/3/13. These payments add up to \$1406. It was not disputed that Claimant's required copayment was \$1031.58. DHS contended that the \$620 payment approved by DHS should be reduced by the amount Claimant paid beyond \$1031.58.

DHS did not cite support in policy for altering the SER decision based on a client's payments. Indirect support for the DHS contention does exist. SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (10/2012), p. 1. Copayment amounts are deducted from the cost of resolving the emergency. *Id.* The above policy was written in the context of justifying client copayments within the budget process, not in the context of reducing a promised SER payment. The policy serves as a reminder that a client is ultimately responsible for their own obligations and could be reasonably interpreted to support the DHS contention to reduce Claimant's copayment.

Claimant's testimony implied that her overpayment paid for ongoing rental payments, not arrearage payments. Claimant's testimony was credible. Payment for an ongoing rental obligation does not change the amount needed to stop the eviction. It would be fundamentally wrong if DHS reduced SER payments merely because a client paid an ongoing obligation. The DHS contention makes more sense if SER payment was issued to a person with which Claimant only had a one-time payment obligation. In such a case, a full SER payment would result in over-payment to a payee. In the present case, Claimant paid enough so that she did not fall further behind on her rental obligation- a very appropriate and sensible act. Based on the presented evidence, it is found that Claimant's overpayment of copayment should not reduce the amount of DHS' payment.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to process Claimant's SER approval. It is ordered that DHS:

- (1) process the SER Decision Notice dated 10/25/12 subject to the finding that Claimant timely provided proof of a \$1031.58 copayment; and
- (2) not reduce the \$620 SER payment due to any payments by Claimant for her ongoing rent.

The actions taken by DHS are REVERSED.



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

Date Signed: 6/24/2013

Date Mailed: 6/24/2013

**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:

