

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201341769
Issue No.: 2000, 3000, 5016
Case No.: [REDACTED]
Hearing Date: May 21, 2013
County: Cass

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 21, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] (Claimant) and [REDACTED] [REDACTED] (Claimant's ex-spouse/caregiver). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Manager) and [REDACTED] (Case Worker).

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with energy or utility 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 April 9, 2013, Claimant applied for SER assistance with energy or utility service.
2. On April 11, 2013, the Department sent notice of the application denial to Claimant.
3. On April 15, 2013, the Department received Claimant's hearing request concerning Food Assistance Program (FAP) and Medical Assistance (MA) and protesting 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 1993 AACSR 400.7001-400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

State Emergency Relief (SER) 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.

ERM 101 sets forth the general requirements for SER. SER applicants must meet all of the following: (1) complete the application process; (2) **meet financial** and non-financial requirements; (3) have an emergency which threatens health or safety and can be resolved through issuance of SER; (4) take action within their ability to help themselves (i.e. obtain potential resources and/or apply for assistance); (5) not have caused the emergency (See ERM 204, Client-Caused Emergencies); and (6) cooperate in providing information about income, assets, living arrangements, and other persons living in the home. ERM 101.

If the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied unless good cause is granted. ERM 103. Bridges 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.

As a condition of SER eligibility, all the adults in the SER group must agree to take actions within their ability to make potential resources available. ERM 203. Potential resource means an asset or income that may be available to a client if action is taken to make this available. ERM 203. The Department may not require the SER group to apply for loans, including home equity loans from financial institutions or individuals. ERM 203. Pursuing a potential resource increases the group's ability to resolve their emergency with the additional income or asset. ERM 203.

SER does not assist a group who failed to use their available money to prevent a shelter, energy or utility emergency. ERM 204. A client-caused emergency is when an SER group fails to pay required payments for the six month period prior to the month of application. ERM 204. Note: This does not apply to categorically eligible cases; see ERM 301, Energy Services. ERM 204.

Low-income households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP). ERM 301.

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. The amount of the payment is the minimum necessary to

prevent shutoff or restore service, up to the fiscal year cap. ERM 301. Payment must resolve the emergency by restoring or continuing the service for at least **30 calendar days**. ERM 301. Current bills that are not subject to shutoff should not be included in the amount needed. ERM 301.

To be eligible for energy service assistance, an SER group must make required payments toward their energy service bills unless the case is categorically eligible. ERM 301. The required payment amounts are based on the group size and service (heat or electric). See the Table of Monthly Energy Required Payments in ERM 301.

The energy required payment period is the six-month period prior to the month the SER group applies for assistance, regardless of previous approvals. ERM 301. It applies even if the client has never requested or received SER energy services in the past six-months. ERM 301. For example, if the group applies for heating assistance on January 13, the required payment period is July through December.

ERM 208 contains a chart for non-energy services which indicates that an SER group of 2 has a \$500.00 income need standard. ERM 208 page 4.

Here, Claimant did not dispute that he had an SER group of 2 and that he and his former-spouse each received monthly unearned income from RSDI in the gross amounts of \$1,461.90 and \$908.00 for a total of \$2,369.90. This amount well exceeds the \$500.00 income need standard set forth by ERM 208. Based on the above Findings of Fact and Conclusions of Law, the Administrative Law Judge concludes that the Department properly denied Claimant's SER application for assistance with energy and utility services.

Claimant, during the hearing, agreed that there was no negative action affecting his FAP and MA cases. According to Michigan Administrative Code (MAC) 400.903(1), "[a]n opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance." At the time of Claimant's hearing request, the Department had not taken any action to suspend, reduce, discontinue or terminate Claimant's FAP or MA benefits. Under the administrative rule discussed above, Claimant does not have the right to a hearing and thus, this Administrative Law Judge has no jurisdiction in the FAP and MA matters.

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 when it denied Claimant's SER application for electric assistance.

Accordingly, the Department's SER decision is **AFFIRMED**.

In addition, Claimant's hearing request for FAP and MA is **DISMISSED** for lack of jurisdiction.

IT IS SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: May 21, 2013

Date Mailed: May 22, 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 mailing 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

CAP/aca

cc:

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