

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 2013-54030
Issue No.: 3000; 5006
Case No.: ██████████
Hearing Date: July 18, 2013
County: Macomb (20)

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 July 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistant Payment Worker.

ISSUE

Did the Department properly process Claimant's request for State Emergency Relief (SER) assistance with non-heat electricity?

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 April 29, 2013, Claimant applied for SER assistance with non-heat electricity and heat. Exhibit 1.
2. On May 7, 2013, the Department sent Claimant a SER Decision Notice, which approved Claimant's heat assistance in the amount of \$811.58. Exhibit 1.
3. On May 7, 2013, the SER Decision Notice also notified Claimant that the she must pay a total of \$986.86 towards the non-heat electricity service and then once Claimant pays this amount, the Department would pay \$850 towards the non-heat electricity. Exhibit 1.

4. On May 17, 2013, the Department received notice that another agency will commit to pay \$1,000 towards Claimant's non-heat electricity. Exhibit 1.
5. On May 23, 2013, the Department received notice that another agency will commit to pay \$388 towards Claimant's non-heat electricity. Exhibit 1.
6. On May 31, 2013, the \$388 payment by another agency was processed for Claimant's non-heat electricity payment. Exhibit 1.
7. On June 7, 2013, the \$1,000 payment by another agency was processed for Claimant's non-heat electricity payment. Exhibit 1.
8. Claimant had until May 28, 2013 to submit the \$986.86 payment. Exhibit 1.
9. On June 14, 2013, the Department sent Claimant a Quick Note notifying her that she had until May 28, 2013 to make her payment and that did not occur until May 31, 2013. Exhibit 1.
10. On June 21, 2013, the Department received Claimant's hearing request, protesting the SER denial and her FAP benefits. Exhibit 1.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Rule 400.3001 through Rule 400.3015.

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 State Emergency Relief Manual (ERM).

As a preliminary matter, Claimant is not disputing her FAP benefits as indicated in her June 21, 2013 hearing request. See Exhibit 1. Thus, pursuant to Mich Admin Code Rule 400.906(1), Claimant's FAP hearing request is hereby DISMISSED.

The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. ERM 208 (October 2012), p. 3. Other persons or organizations can also contribute funds on behalf of the SER group. ERM 208, p. 3. If an application is made for shelter, heat, electricity or utilities, a determination of required payments must be made. ERM 208, 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. ERM 208, p. 3. If the client

failed without good cause to make required payments, a short fall amount is determined. ERM 208, p. 3. The client must pay the shortfall amount toward the cost of resolving the emergency. ERM 208, p. 3.

If the SER group meets all eligibility criteria but has a copayment, shortfall or contribution, the Department does not issue a payment until the client provides proof that their payment has been made or *will be made by another agency*. ERM 208, p. 3; emphasis added. Verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made. ERM 208, p. 3. Before authorizing the department's portion of the cost of services, verify that the copayment, shortfall, and contribution have been paid by the client or *will be paid by another agency*. ERM 208, p. 4.

It should be noted that Claimant is not disputing the heat payment approval by the Department. Also, Claimant is not disputing the \$986.86 total payment. This amount results from \$432.02 in unmet required payments (shortfall) and \$554.84 of contribution from Claimant and/or other sources. See Exhibit 1.

In this case, on April 29, 2013, Claimant applied for SER assistance with non-heat electricity and heat. Exhibit 1. On May 7, 2013, the SER Decision Notice notified Claimant that she must pay a total of \$986.86 towards the non-heat electricity service and then once Claimant pays this amount, the Department would pay \$850 towards the non-heat electricity. Exhibit 1. On May 17, 2013, the Department received notice that another agency will commit to pay \$1,000 towards Claimant's non-heat electricity. Exhibit 1. On May 23, 2013, the Department received notice that another agency will commit to pay \$388 towards Claimant's non-heat electricity. Exhibit 1. On May 31, 2013, the \$388 payment by another agency was processed for Claimant's non-heat electricity payment. Exhibit 1. On June 7, 2013, the \$1,000 payment by another agency was processed for Claimant's non-heat electricity payment. Exhibit 1. Claimant had until May 28, 2013 to submit the \$986.86 payment. Exhibit 1. On June 14, 2013, the Department sent Claimant a Quick Note notifying her that she had until May 28, 2013 to make her payment and that did not occur until May 31, 2013. Exhibit 1.

At the hearing, the Department testified that the 30-day eligibility period for Claimant ended on May 28, 2013. See Exhibit 1. The Department testified that it did not receive the \$388 payment until May 31, 2013 from the other agency and did not receive the \$1,000 until June 7, 2013 from the other agency. See Exhibit 1. The Department testified that these amounts occurred after the 30-day eligibility period. Thus, the Department denied Claimant's non-heat electricity payment.

Claimant testified that the Department received the commitment payments by other agencies on May 17, 2013 and May 23, 2013. Thus, Claimant testified that the Department had notice that the \$388 and \$1,000 payments would occur and therefore, met Claimant's total payment requirement.

Based on the foregoing information and evidence, the Department improperly processed Claimant's SER Decision Notice effective April 29, 2013. ERM 208 states

that before authorizing the Department's portion, verify that the payment *will be paid by another agency*. ERM 208, p. 4; emphasis added. Claimant provided proof that Department was aware that the payment will be paid by another agency before the May 28, 2013 due date. See Exhibit 1.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department improperly denied Claimant's non-heat electricity payment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department:

did act properly. did not act properly.

Accordingly, the Department's SER decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister and initiate processing of the SER application with the effective date of April 29, 2013;
2. Issue supplements to Claimant for any SER benefits she was eligible to receive from April 29, 2013 application; and
3. Notify Claimant in writing of its SER decision in accordance with Department policy.

Based on the above discussion, it is ALSO ORDERED that Claimant's FAP hearing request is DISMISSED pursuant to Mich Admin Code Rule 400.906(1).



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

Date Signed: July 26, 2013

Date Mailed: July 26, 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 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/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]