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

IN THE MATTER OF:

[redacted]

Reg. No.: 201341681
Issue No.: 5100
Case No.: [redacted]
Hearing Date: August 12, 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 August 12, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [redacted], Specialist, and [redacted], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's State Emergency Relief (SER) eligibility.

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 an unspecified date in April 2013, Claimant applied for SER seeking assistance with an energy payment.

2. On April 10, 2013, Claimant requested a hearing to dispute a failure by DHS to pay Claimant's energy bill.

3. On April 17, 2013, DHS determined that Claimant was eligible to receive $850.00 toward an electric bill balance, subject to an $1,173.02 Claimant copayment, and $483.50 toward payment of a gas bill, subject to a $1,791.68 Claimant copayment.

4. Claimant testified that she disputes the DHS decision from April 17, 2013 due to the large amount of the copayments required by DHS.

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 testified that she requested a hearing to dispute a failure by DHS to pay her energy bill. Claimant's testimony was very sketchy. Claimant testified that she applied multiple times in the past without receiving payment from DHS. Claimant had difficulty identifying which DHS decision that she was disputing.

It was not disputed that Claimant received a SER decision on April 17, 2013. It was not established which SER application date corresponded to the April 17, 2013 decision. Claimant testified that she applied in April 2013. If DHS mailed Claimant a SER decision dated April 17, 2013, it is probable that the decision corresponded with a SER application from April 2013.

Claimant could not have possibly disputed a SER decision from April 17, 2013 because the decision had not yet been made on the date that Claimant requested a hearing, April 10, 2013. Despite Claimant's procedural gaffe, it is appropriate to proceed with an administrative review.

First, DHS alleged that Claimant hadn't applied since October 2012, but no evidence was provided to justify the allegation. If the DHS allegation were true, Claimant would have likely waited too long to request a hearing, depending on when DHS mailed the decision. Claimant testified that she applied multiple times in the 3 month period prior to April 2013; if Claimant's testimony was true, Claimant would be entitled to dispute the decision by administrative hearing.

Secondly, DHS was aware that Claimant was disputing a SER decision. Thus, it was not thought to be unfair for DHS to defend how the SER application was processed. Accordingly, Claimant may proceed with a dispute of the SER decision dated April 17, 2013 despite procedural flaws in the request.

Claimant simply contended that DHS should have paid her energy bill. Claimant also contended that the "approval" of the SER was unreasonable due to the large copayments expected by DHS. It was not disputed that the copayments were based primarily on the amount that DHS determined to resolve Claimant's emergency.

DHS contended that the amounts required to resolve the emergency was the "past due" amount. DHS determined the past due amount to be $4,298.20. After reducing

Claimant's potential SER payment of $1,333.50, Claimant was left with a copayment of $2,964.70 and 30 days to make the payment to her energy service provider. Claimant contended that her actual past due amount was closer to $3,000.00, but conceded that she would not have been able to pay the approximate $2,000.00 copayment that would have resulted. The only issue in dispute is whether DHS should have considered the past due amount as the amount to resolve the emergency.

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. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. *Id*. DHS is to verify actual or threatened shutoff or the need for reconnection of natural gas or electricity, by contacting the energy company. *Id*., p. 9.

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 (3/2013), p. 1. The amount of the payment is the minimum necessary to prevent shutoff or restore service, up to the fiscal year cap. *Id*. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. *Id*.

The DHS specialist testified that there was a time when energy service providers were willing to accept any payment from DHS to stop a shut-off for 30 days. It is known that during that time period, if a client had a $4,000.00 past due bill but $1,250.00 available in potential SER funds, DHS was to process SER eligibility based on $1,250.00 being the amount to stop the shut-off.

DHS policy implies that a past due amount is the amount that will stop a shut off. Current bills that are not subject to shutoff should not be included in the amount needed. *Id*. Claimant did not present any evidence that her energy service provider would accept a smaller amount than the past due amount to stop the shut-off. Based on the presented evidence, it is found that DHS properly used Claimant's past due amount to determine her SER eligibility. Accordingly, DHS properly determined Claimant's SER eligibility. Claimant may be able to establish SER eligibility without making a copayment in the future by verifying to DHS that her energy service provider will accept a smaller amount than the past due amount to stop a shut-off.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant to be eligible for SER subject to copayments in a decision dated April 17, 2013. The actions taken by DHS are **AFFIRMED**.

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

Date Signed: August 22, 2013

Date Mailed: August 23, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CG/aca

cc: [redacted]