

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

IN THE MATTER OF:



Reg. No.: 2013-49390
Issue No.: 5016
Case No.: [REDACTED]
Hearing Date: August 1, 2013
County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 August 1, 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 process Claimant's request for State Emergency Relief (SER) assistance with energy or utility service(s)?

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 May 13, 2013, Claimant applied for SER assistance with energy or utility service.
2. On May 14, 2013, the Department sent Claimant a SER Decision Notice denying the application on the basis that Claimant's countable income exceeded the maximum allowed for the program.
3. On May 21, 2013, the Department received Claimant's hearing request, protesting the SER decision.

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 Mich Admin Code,

Rules 400.7001 through 400.7049. Department policies are found in the Department of Human Services State Emergency Relief Manual (ERM).

Additionally, on May 13, 2013, Claimant applied for SER assistance with his outstanding gas and electric bills. In a May 14, 2013, SER Decision Notice, the Department denied the application on the basis that Claimant's countable income exceeded the income limit for the program.

For a group to be eligible for energy services, the combined monthly *net* income that is received or expected to be received by all SER group members in the 30-day countable income period cannot exceed the standard for SER energy/LIHEAP services for the number of group members. ERM 208 (March 2013), p. 1. For a group size of one, Claimant's group size, the applicable income limit is \$1,397. ERM 208, p 6. If Claimant's income during the 30-day countable income period exceeds this limit, the SER request must be denied. ERM 208, p. 4.

The 30-day countable income period begins on the date the local office received a signed application for SER. ERM 206 (March 2013), p. 1. Because Claimant submitted his SER application on May 13, 2013, the Department was required to consider Claimant's net countable income for the period from May 13, 2013, through June 11, 2013.


In this case, in his application Claimant identified his sole income as consisting of weekly net short-term disability benefits of \$355. See ERM 206, pp. 1-2, 4 (stating that countable income includes payments from sick and accident insurance and describing the applicable deductions to arrive at net income). Claimant also indicated he received his weekly payment on Fridays, his last payment was received on May 13, 2013, and he expected these payments to continue. Based on the information Claimant provided, Claimant would receive four weekly payments between May 13, 2013, and June 11, 2013, and his net monthly income during this period was \$1,420. Because the \$1,420 net countable income Claimant expected to receive during the 30-day countable income period between May 13, 2013, and June 11, 2013, exceeded the \$1,397 income limit applicable to Claimant's group, the Department acted in accordance with Department policy when it denied Claimant's SER application.

It is further noted that Claimant testified at the hearing that he had received assistance from a community agency in paying the past-due gas and electric bills at issue in his May 13, 2013, SER application. SER assistance is available when a client has an emergency which threatens health or safety and can be resolved through issuance of SER funds. ERM 101 (March 2013), p. 1. The Department may not authorize a SER payment unless it will resolve the emergency. ERM 208, p. 1. Because Claimant received assistance to pay the shut-off amounts due to his energy provider, there is no longer an emergency that SER assistance can resolve.

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 acted in accordance with Department policy when it denied Claimant's May 13, 2013, SER application.

Accordingly, the Department's decision is AFFIRMED.


Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 6, 2013

Date Mailed: August 6, 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:

2013-49390/ACE

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

ACE/pf

cc:

