

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-51460
Issue No.: 5022
Case No.: [REDACTED]
Hearing Date: August 8, 2013
County: Wayne (31)

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 August 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's great-granddaughter, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

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

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 May 20, 2013, Claimant applied for SER assistance for non-heat electricity and heat. See Exhibit 1.
2. On May 29, 2013, the Department sent notice of the application denial to Claimant. Exhibit 1.
3. On June 4, 2013, the Department received Claimant's hearing request, protesting the SER denial. Exhibit 1.

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 Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

In this case, on May 20, 2013, Claimant applied for SER assistance for non-heat electricity and heat. See Exhibit 1. On May 29, 2013, the Department sent notice of the application denial to Claimant. Exhibit 1. Specifically, the notice denied Claimant's non-heat electricity in the amount of \$ [REDACTED] due to her excess income. Exhibit 1. Also, the notice denied Claimant's heat assistance in the amount of \$ [REDACTED] due to her excess income. Exhibit 1.

Low-income households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (February 2013), p. 1. 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, p. 1. The amount of the payment is the minimum necessary to prevent shutoff or restore service, up to the fiscal year cap. ERM 301, p. 1.

There are no income copayments for SER energy services. ERM 208 (October 2012), p. 1. With respect to income, clients are either eligible or they are not. ERM 208, p. 1. For a group to be eligible for energy services, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period, cannot exceed the standard for SER energy/Low Income Home Energy Assistance Program (LIHEAP) services for the number of group members. ERM 208, pp. 1 and 4. If the income exceeds the limit, the request must be denied. ERM 208, p. 1.

The Department 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 (October 2011), p. 1. The SER budget computation period is 30 days. ERM 206, p. 1. This is referred to as the countable income period. ERM 206, p. 1. The first day of the countable income period is the date the local office receives a signed application for SER. ERM 206, p. 1.

At the hearing, it was not disputed that Claimant's group size is four. The Department testified that Claimant's unearned income amount of \$ [REDACTED] exceeded the \$ [REDACTED] income need amount for a group size of four. ERM 208 states that a group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in the SER Income Need Standards for Non-Energy Services. ERM 208, pp. 1 and 4. It appears that the Department used this standard and determined that Claimant's SER group size of four exceeded the income standard of \$ [REDACTED]. See ERM 208, pp. 1 and 4.

Moreover, the Department presented at the hearing the SER – Copayment Details document. See Exhibit 1. It should be noted that the Department did not present a SER budget for review. The document indicated that the remaining earned income after deductions was \$ [REDACTED]. See Exhibit 1. The Department testified that the earned income originated from Claimant’s son employment. The Department was unable to present evidence on how it calculated this amount.

Additionally, the SER – Copayment Details document indicated that Claimant’s SER group received \$710 in Supplemental Security Income (SSI) payments, which Claimant did not dispute. See Exhibit 1. Also, the document indicated that Claimant received \$ [REDACTED] from Retirement, Survivors, and Disability Insurance (RSDI) payments. See Exhibit 1. Claimant testified that she receives \$ [REDACTED] from RSDI payments. The document also indicated that Claimant’s SER group received \$ [REDACTED] in unemployment income. See Exhibit 1. The Department testified that this amount originated from Claimant’s son. Claimant testified she was unsure of this amount. The Department did not present proof at the hearing on how it calculated the unemployment income. Nevertheless, the SER – Copayment Details indicated that the total unearned income amount was \$ [REDACTED]. See Exhibit 1. Thus, the Department testified that the unearned income amount of \$ [REDACTED] exceeded the \$ [REDACTED] income need amount for a group size of four and her SER application was denied due to excess income. See Hearing Summary, Exhibit 1.

Based on the foregoing information and evidence, the Department improperly denied Claimant’s application for non-heat electricity and heat. First, the Department did not satisfy its burden of showing how it calculated portions of the SER groups earned and unearned income. The Department failed to present evidence on how it calculated Claimant’s son unemployment income amount. Second, the Department applied the wrong excess income standard. ERM 208 states that the SER Income Need Standards for Non-Energy Services for a SER group size of four cannot exceed the income standard of \$ [REDACTED]. See ERM 208, pp. 1 and 4. This standard is for *non-energy services*. See ERM 208, pp. 1 and 4; emphasis added. Claimant applied for energy services. See Exhibit 1. Instead, the Department should have used the SER Income Need Standards for Energy Services for a group size of four as indicated in ERM 208. ERM 208, pp. 1 and 4. The Department applied the incorrect standard when it determined if whether the SER group size had exceeded the income standards.

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 properly denied improperly denied

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 above and 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. Initiate reregistration of Claimant's May 20, 2013 SER application;
2. Begin reprocessing the application/recalculating the SER budget for May 20, 2013, ongoing, in accordance with Department policy;
3. Begin issuing supplements to Claimant for any SER benefits she was eligible to receive but did not from May 20, 2013, ongoing; and
4. Begin notifying Claimant in writing of its SER decision in accordance with Department policy.

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

Date Signed: 8/27/13

Date Mailed: 8/27/13

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.

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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/tb

cc:

