

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

IN THE MATTER OF:



Reg. No.: 2013-54504
Issue No.: 5022
Case No.: [REDACTED]
Hearing Date: August 19, 2013
County: Wayne (19)

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 19, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's son, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist, and [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with 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 30, 2013, Claimant applied for SER assistance with non-heat electricity and heat. Exhibit 1.
2. On June 4, 2013, the Department sent notice of the application denial to Claimant. Exhibit 1.
3. On June 21, 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 30, 2013, Claimant applied for SER assistance for non-heat electricity and heat. See Exhibit 1. On June 4, 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 (March 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 (March 2013), 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 SER Income Need Standards for Energy/LIHEAP Services for a family size of two is \$ [REDACTED] ERM 208, p. 6.

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 (March 2013), 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.

Unearned income examples include Social Security benefits (Retirement, Survivors, and Disability Insurance (RSDI) / Supplemental Security Income (SSI)), which the Department uses the net amount received. ERM 206, p. 1. The net unearned income must be determined by deducting all of the following from the gross amount received: mandatory withholding taxes; court ordered child support paid, including arrears, but not more than the amount ordered by the court...no deduction is made for paid, voluntary child support; payments for health insurance; and Medicare premiums that will not be reimbursed. ERM 206, p. 4.

In the present case, the Department first testified that Claimant was denied based on Claimant and her son receiving income above the SER income limits. However, Claimant testified that her group size should be one because her son moved out in May 2013. The Department testified that Claimant listed both her self and her son as household members on the application. See Exhibit 1. Claimant testified that she did that by mistake. Based on this information, the Department properly processed the application to reflect a group size of two. The Department processed the application

based on the information that Claimant provided, which included her listing a total of two household members.

At the hearing, the Department testified that Claimant and her son received RSDI and SSI benefits, which resulted in a total of \$ [REDACTED] per month. Specifically, the Department testified that Claimant receives \$ [REDACTED] in RSDI and \$ [REDACTED] in SSI, which results in a total of \$ [REDACTED]. Claimant agreed with this amount. However, the Department was unable to testify how it calculated Claimant's son Social Security benefits amount. The Department testified that the SER application indicated that Claimant's son received \$ [REDACTED] in Social Security benefits. See Exhibit 1.

Claimant's son testified that he receives \$ [REDACTED] in Social Security benefits; however, he testified that he only receives \$ [REDACTED] in net Social Security benefits. Claimant's son testified that the Army deducts income from his benefits because he only served one year in the Army. Claimant's son also testified that the income being deducted was his signing bonus.

Additionally, the Department did provide Claimant and her son's SOLQ reports, which indicated how much they are receiving in Social Security benefits. Exhibit 1. The SOLQ report indicates that Claimant receives a net income of \$ [REDACTED] in RSDI benefits. See Exhibit 1. Moreover, Claimant received \$ [REDACTED] in SSI payments at the time of application. See Exhibit 1. This results in a net income of \$ [REDACTED] in Social Security benefits for the Claimant. A review of Claimant's son indicated a net RSDI income of \$ [REDACTED]. See Exhibit 1. There was no indication on the SOLQ screen of any Army deduction. Moreover, Claimant's son was receiving \$ [REDACTED] however, at the time of application, Claimant's son was receiving \$ [REDACTED]. Both Claimant and her son's total unearned income is \$ [REDACTED].

Based on the foregoing information and evidence, the Department improperly denied Claimant's SER application. First, the Department did not satisfy its burden of showing that it acted in accordance with Department policy because it was unable to testify on how it calculated Claimant's son unearned income. Second, ERM 206 states that unearned income includes Social Security benefits (RSDI/SSI), which the Department uses the net amount received. ERM 206, p. 1. Based on the above analysis, Claimant and her son's net amount received was below the \$ [REDACTED] for a family size of two regarding the SER Income Need Standards for Energy/LIHEAP Services. ERM 208, p. 6. Thus, the Department will have to reprocess the SER application.

DECISION AND ORDER

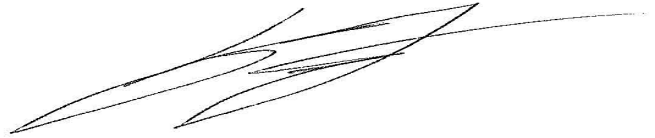
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department:

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. Initiate reregistration of Claimant's May 30, 2013 SER application;
2. Begin reprocessing the application/recalculating the SER budget for May 30, 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 30, 2013, ongoing; and
4. Begin notifying Claimant in writing of its SER decision in accordance with Department policy.



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

Date Signed: August 27, 2013

Date Mailed: August 27, 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

EJF/las

cc:

