

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-58449
Issue No.: 5026
Case No.: [REDACTED]
Hearing Date: August 29, 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, a telephone hearing was held on August 29, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's eligibility for multiple State Emergency Relief (SER) applications requesting rent assistance.

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 [REDACTED]/13, Claimant's residence suffered a fire.
2. On [REDACTED]/13, Claimant applied for SER seeking \$2000; breaking down to \$500 each for a first month's rent, last month's rent, security deposit and moving expenses.
3. Claimant's SER application requested housing for himself and his father, who received \$2088/month in income.
4. On an unspecified date, DHS approved Claimant for \$411.30 in assistance, subject to a copayment by Claimant of \$1588.70.
5. On an unspecified date, Claimant requested a hearing disputing the amount of SER copayment.

6. DHS lost Claimant's hearing request.
7. On 6 [REDACTED]/13, Claimant reapplied for SER seeking \$2000 in relocation costs.
8. On [REDACTED]/13, DHS denied Claimant application dated [REDACTED]/13 on the basis that Claimant applied too long after the fire to be eligible for relocation expenses.
9. On [REDACTED]/13, Claimant requested a hearing to dispute the second application denial.

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. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization.

The hearing packet included a Request for Hearing from Claimant specifically disputing the denial of an SER application that occurred on [REDACTED]/13. Claimant testified that he also requested a hearing to dispute a previous denial of a SER application. DHS conceded that Claimant submitted a written request for hearing concerning a denial of an application dated [REDACTED]/13 and that DHS failed to forward Claimant's hearing request so that it could be scheduled for a hearing. This hearing decision will address both of Claimant's previously submitted SER applications.

It was not disputed that Claimant's SER application dated [REDACTED]/13 was approved for a \$411.30 payment, subject to a copayment by Claimant of \$1588.30. Claimant objected to the amount of copayment.

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 SER Income Need Standards for Non-Energy Services. ERM 208 (8/2012), p. 1. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. *Id.* This is the income copayment. *Id.*

It was not disputed that Claimant's application dated [REDACTED]/13 sought relocation assistance for himself and his father. Claimant conceded that his father received \$2088.70 in monthly income. Based on Claimant's household size of 2, the income need standard for non-energy services is \$500. *Id.*, p. 4. Subtracting the income need standard from Claimant's father's income results in an income copayment of \$1588.70,

the same amount calculated by DHS. Accordingly, it is found that DHS properly approved Claimant for a \$411.30 payment subject to a \$1588.70 copayment.

Claimant reapplied for SER on [REDACTED]/13. The DHS stated reason for the denial was that Claimant had only 30 days from the date of fire to seek assistance for relocation.

A group living with friends or relatives is not homeless, even if the arrangement is temporary unless the group is living temporarily with other persons following a fire or natural disaster that occurred not more than 60 days before the date the group files an application for SER. ERM 303 (8/2012), p. 3. DHS failed to cite any other policy that applies to Claimant's circumstances.


The above policy gives Claimant 60 days to apply for SER following a fire, not 30. Further, the above policy is not a hardline restriction on clients who suffered a fire at the residence; it is only applicable to clients that are temporarily living with others (which happened to be what Claimant was doing as of the date of hearing). Despite the above policy failing to support DHS, there is another reason to justify the denial of Claimant's application.

Housing affordability is a condition of eligibility for SER and applies to Relocation Services. ERM 207 (4/2011), p. 1. DHS is to authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. *Id.* An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. *Id.*

At the time of Claimant's application dated [REDACTED]/13, Claimant reported \$0 income and a group size of only himself. Claimant could not have been eligible for SER without any income. As it happened, Claimant was approved for Supplemental Security Income (SSI) in [REDACTED]/2013, which would possibly make a \$500 monthly rent affordable. The increase in income would not affect Claimant's eligibility from the [REDACTED]/13 application date because the income was non-existent. Thus, DHS properly denied Claimant's SER application dated [REDACTED]/13, though for the improper reason. Should Claimant reapply for SER, Claimant's recently started income would immensely assist Claimant in an affordability determination.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly processed Claimant's SER application dated [REDACTED]/13 for \$411.30 subject to a copayment of \$1588.70. It is further found that DHS properly denied Claimant's application dated [REDACTED] 7/13 due to Claimant not being able to afford a \$500 monthly rent. The actions taken by DHS are AFFIRMED.


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

Date Signed: 9/20/2013

Date Mailed: 9/20/2013

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/hw

cc:

