

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-64962
Issue No.: 5022
Case No.: ██████████
Hearing Date: October 16, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 16, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ arey, Assistant Payment Supervisor, and ██████████ Assistant Payment Worker.

ISSUES

Did the Department properly deny Claimant's State Emergency Relief (SER) application with water or sewage?

Did the Department properly deny Claimant's SER application for 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. Claimant's household group size is three and two of the group members receive Supplemental Security Income (SSI).
2. On June 19, 2013, Claimant applied for SER assistance with water.
3. On June 20, 2013, the Department sent Claimant a SER Decision Notice, which denied Claimant's water request. Exhibit 1.

4. On August 7, 2013, Claimant applied for SER assistance with non-heat electricity and heat request.
5. On August 7, 2013, the Department sent Claimant a SER Decision Notice, which approved Claimant for non-heat electricity request, but denied her for heat request. Exhibit 1.
6. On August 15, 2013, Claimant filed a hearing request, protesting the SER decisions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Water or sewage application

SER helps to restore or prevent shut off of a utility service specified in this item when service is necessary to prevent serious harm to SER group members. ERM 202 (March 2013), p. 1. Utility services include the payment of an arrearage to maintain or restore service for water, sewer or cooking gas. ERM 302, p. 1.

Before authorizing the department's portion of the cost of services, the Department verifies that the income and asset copayment, shortfall, and contribution have been paid by the client or will be paid by another agency. ERM 302, p. 2.

On June 19, 2013, Claimant applied for SER assistance with water. On June 20, 2013, the Department sent Claimant a SER Decision Notice, which denied Claimant's water request. Exhibit 1. Specifically, the Department denied Claimant's water request in the amount of \$734.02 because Claimant's income/asset copayment is equal to or great than the amount needed to resolve the emergency. See Exhibit 1.

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (March 2013), p. 1.

In most cases cash assets in excess of \$50 result in an asset copayment. ERM 208, p. 1. An asset copy cannot be reduced or waived. ERM 208, p. 1.

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 Exhibit I, SER Income Need Standards for Non-Energy Services. ERM 208, p. 1. The SER Income Need Standards for Non-Energy Services states that the income need standard for a SER group size of three is \$625. ERM 208, p. 5.

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. ERM 208, p. 1. This is the income copayment. ERM 208, p. 1.

The income and asset copayments combined together determine the SER group's total copayment. ERM 208, p. 2. The total copayment is the amount the SER group must pay toward their emergency. ERM 208, p. 2. Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, p. 2.

At the hearing, the Department presented a co-payment calculation. See Exhibit 1. The Department calculated the total unearned income to be \$1,420. See Exhibit 1. This was based on Claimant's two children each receiving \$710 for SSI. See ERM 206 (March 2013), p. 1. Claimant did not dispute this amount. Then, the Department subtracted the \$1,420 countable income from the \$625 income need standard for a group size of three; this resulted in an initial income co-payment of \$795. See Exhibit 1; See ERM 208, p. 5.

Additionally, the Department added a \$659 asset co-payment, which resulted in a final total co-payment of \$1,454. See Exhibit 1. However, it was discovered during the hearing that the Department should have not applied the asset co-payment. It appeared that Claimant did not have such an asset co-payment. Nevertheless, the Department testified that Claimant's initial income co-payment of \$795 still exceeded the water need amount of \$734.02. Claimant agreed that her water need amount was \$734.02.

Based on the foregoing information and evidence, the Department properly denied the SER assistance request for water in the amount of \$734.02. It was harmless error that the Department included the asset co-payment in the final co-payment amount because Claimant's income payment still exceeds the need. Claimant agreed that the group's net income is \$1,420. The Department properly subtracted the \$625 income need standard for a group size of three, which resulted in an income co-payment of \$795. See Exhibit 1; See ERM 208, p. 5. This amount still exceeds the water amount need. Thus, the Department properly denied the SER water request in accordance with Department policy.

It should be noted that Claimant testified that she did not receive the June 20, 2013, application until August 2013. However, this hearing decision ultimately addressed Claimant's water dispute.

Non-heat electricity and heat application

On August 7, 2013, Claimant applied for SER assistance with non-heat electricity and heat request. On August 7, 2013, the Department sent Claimant a SER Decision Notice, which approved Claimant for non-heat electricity request, but denied her for heat request. Exhibit 1. Specifically, the Department denied Claimant's heat request in the amount of \$526.84 because Claimant's income/asset copayment is equal to or great than the amount needed to resolve the emergency. See Exhibit 1. It should be noted that Claimant is not disputing the approval for non-heat electricity.

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.

There are no income copayments for SER energy services. ERM 208, p. 1. With respect to income, clients are either eligible or they are not. ERM 208, p. 1. However, SER energy services are subject to an asset copayment. ERM 208, p. 1. Policy regarding asset copayment was previously addressed in the above analysis.

In this case, the Department appeared to deny Claimant's heat request because her asset co-payment exceeded the need amount. See Exhibit 1. The Department provided an SER – Assets budget, which indicated that Claimant had a total liquid asset of \$709. See Exhibit 1. The Department then subtracts the \$50 cash asset limit, which results in excess cash assets of \$659. See Exhibit 1. Thus, the Department denied the heat request because the \$659 exceeded the heat need amount of \$526.84.

However, as previously discussed, the Department had issues with determining the appropriate asset amount. It was discovered during the hearing that the Department should have not applied the asset co-payment.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (July 2013), p. 33. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 35.

Based on the foregoing information and evidence, the Department improperly denied Claimant's SER application for heat request. The Department failed to present evidence on how it calculated the asset amount. Moreover, the Department's own testimony indicated that it misapplied or miscalculated the asset portion. Thus, the Department will reprocess the heat request to determine if Claimant's is eligible for that assistance.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department (i) properly denied the SER assistance request for water in the amount of \$734.02, and (ii) improperly denied the SER assistance request for heat in the amount of \$526.84.

DECISION AND ORDER

Accordingly, the Department's SER decision for water is AFFIRMED and the SER decision for heat is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister and initiate processing of the SER assistance request for heat with the effective date of August 7 2013;
2. Issue supplements to Claimant for SER assistance request for heat if she was eligible to receive from the date of the application and in accordance with Department policy; and
3. Notify 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: October 29, 2013

Date Mailed: October 29, 2013

NOTICE OF APPEAL: 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.

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).

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/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]