

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

IN THE MATTER OF:

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Reg. No.: 2013-64976
Issue No.: 5025;5016;5020;5022
Case No.: ██████████
Hearing Date: October 24, 2013
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 October 24, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist and ██████████ ██████████ Lead Specialist.

ISSUE

Did the Department properly process Claimant's request for State Emergency Relief (SER) 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 June 7, 2013, Claimant applied for SER assistance with property taxes and electricity.
2. On June 13, 2013, the Department sent Claimant a SER Decision Notice denying her request for assistance with property taxes because the amount of all past due taxes exceeds \$2,000. (Exhibit 1)
3. The Department failed to process Claimant's June 7, 2013, request for assistance with electricity.
4. On June 25, 2013, Claimant applied for SER assistance with electricity. (Exhibit 5)

5. On June 27, 2013, the Department sent Claimant a SER Decision Notice denying her request for assistance on the basis that her countable income was higher than the maximum amount for the program. (Exhibit 4)
6. On August 15, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the SER decisions.

CONCLUSIONS OF LAW

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

June 7, 2013 SER Application

Property Taxes

Additionally, property taxes and fees are considered covered home ownership services for SER purposes and payments are only issued to save a home threatened with loss due to tax foreclosure or sale, among other things. ERM 304 (March 2013), p. 1. The lifetime home ownership services maximum is \$2,000. The lifetime maximum is the combined cumulative total of all home ownership service payments. ERM 304, p. 1. In addition to several other eligibility factors required for SER home ownership service payments for property taxes, BEM 304 provides that the total amount of tax arrearage for **all** years cannot exceed \$2,000. The total tax arrearage amount is the total for every year combined, not just for the tax years which assistance is being requested. ERM 304, pp.3-4.

In this case, Claimant requested a hearing regarding the SER denial of her request for assistance with property taxes. At the hearing, the Department testified that in processing Claimant's application, it considered the Tax Statement which establishes that the total tax arrearage for the years 2009, 2010 and 2011 exceeds the \$2,000.00 limit. (Exhibits 1 and 2). Claimant confirmed that her request was more than the \$2,000 limit. Because the Department is to consider the total tax arrearage, not just for the year the assistance is being requested, the total taxes owed in this case exceeds the \$2,000.00 lifetime maximum for home ownership service payments under ERM 304. As such, the Department acted in accordance with Department policy when it denied Claimant's application for SER assistance for property taxes.

Electricity

Additionally, applications must be registered within one day of receipt. The Department is to obtain all the supporting verifications and process the application in accordance with policy. When a decision is made, the Department is to inform all SER applicants in writing of the decision made on their application. ERM 103 (March 2013), pp. 1, 4-5, 7.

In this case, on June 7, 2013, Claimant submitted an application for SER assistance with electricity which was never processed by the Department. At the hearing, the Department testified that because a shut off notice was not included with Claimant's application, the Department did not register and process the electricity portion of her application, and instead, only registered and processed the property tax portion, discussed above. The Department acknowledged that it acted in error when it failed to register and process Claimant's SER application for assistance with electricity, in accordance with Department policy.

June 25, 2013 SER Application

Additionally, heat and electrical services are energy services. ERM 301, 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 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 \$1,397.00. 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.

Claimant applied for SER assistance with her outstanding electric bills. (Exhibit 5). With her application, Claimant submitted a shut off notice that was dated March 2013. In processing the application, the Department accessed Claimant's DTE statement online to determine that as of the application date, Claimant's electric bill was past due in the amount of [REDACTED] and her heat bill was past due in the amount of [REDACTED] (Exhibit 6). Although Claimant did not submit an application for assistance with her heat bill, the Department processed a request on her behalf to prevent a shut off emergency.

In a June 27, 2013, SER Decision Notice, the Department denied the application for both heat and electricity on the basis that Claimant's countable income exceeded the income limit for the program. (Exhibit 4). The Department testified that in calculating Claimant's income, it considered the following: (i) \$ [REDACTED].

Claimant confirmed that she receives these amounts monthly.

Therefore, the Department properly concluded that because Claimant's countable income was [REDACTED], she was ineligible for SER assistance, as Claimant's income exceeded the \$1, 397.00 limit.

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 acted in accordance with Department policy when it denied Claimant's request for assistance with property taxes and denied Claimant's June 25, 2013, request for assistance with heat and electricity. It is further found that the Department did not act in accordance with Department policy when it failed to register and process Claimant's June 7, 2013, request for assistance with electricity.

DECISION AND ORDER

Accordingly, the Department's SER decision is AFFIRMED IN PART with respect to property taxes and the denial of the June 25, 2013 application for heat and electricity and REVERSED IN PART with respect to the June 7, 2013 application for electricity.

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. Register and process Claimant's June 7, 2013 SER application for electricity to determine Claimant's eligibility for SER assistance as of the application date;
2. Issue a new SER Decision Notice informing Claimant of its decision.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 30, 2013

Date Mailed: October 30, 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.

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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

ZB/tm

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]