

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 2013-65210
Issue No.: 5022
Case No.: ██████████
Hearing Date: October 24, 2013
County: Wayne (17)

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.

ISSUE

Did the Department properly process Claimant's request for State Emergency Relief (SER) assistance with utility/energy services?

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 August 12, 2013, Claimant applied for SER assistance with utility/energy services.
2. On August 16, 2013, the Department sent Claimant the SER Decision Notice denying her request for assistance on the basis that her income/asset copayment was equal to or greater than the amount needed to resolve the emergency.
3. On August 22, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the SER decision.

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).

Additionally, eligible households may receive assistance with heat and electricity costs under the energy services program. ERM 301 (March 2013), p. 1. At application, the Department is to complete an SER budget for each request. The Department will calculate payment maximums, required payments, income and asset copayment, and client contributions based on the information provided to determine eligibility for SER. ERM 103 (March 2013), p. 3.

In most cases, cash assets in excess of \$50.00 will result in an asset copayment, which cannot be reduced or waived. ERM 208 (March 2013), p. 1. There are no income copayments for SER requests for energy services. With respect to income, clients are either eligible or not. 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 services, based on the group size. ERM 208, p. 1. The income and asset copayments combined together determine the SER group's total copayment, which is deducted from the cost of resolving the emergency. ERM 208, p. 2.

To be eligible for energy services assistance, an SER group must make required payments toward their energy service bills. ERM 301, p.5. The required payment amounts are based on the group size and service (heat or electric) and are found in the Table of Monthly Energy Required Payments. ERM 301, p. 5. The energy required payment period is the six-month period prior to the month the SER group applies for assistance, regardless of previous approvals. ERM 301, p. 5. If the client failed without good cause to make required payments, a short fall amount is determined. The client must pay the shortfall amount toward the cost of resolving the emergency. Verification that the shortfall has been paid must be received before any SER payment can be made. ERM 208, p.4.

In this case, Claimant submitted an application for SER requesting assistance in the amount of [REDACTED] for heat and [REDACTED]. The Department testified that Claimant's application was denied on the basis that the income/asset copayment is equal to or greater than the amount needed to resolve the emergency. (Exhibit 1). At the hearing, the Department failed to identify the amount of the income/asset copayment and did not present a budget to establish how the copayment was calculated or what income amounts were relied on in making that determination. Although the Department did provide a SER Required Payment Summary, the Department remained unable to explain whether or not Claimant had made all of the

required payments or how the required payments influenced the Department's decision to deny Claimant's application based on an income/asset copayment. (Exhibit 2).

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it issued its SER Decision Notice denying Claimant's application for assistance with heat and electricity based on the income/asset copayment being equal to or greater than the amount needed to resolve the emergency.

DECISION AND ORDER

Accordingly, the Department's SER decision 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. Register and process Claimant's August 12, 2013 SER application to determine Claimant's eligibility for SER assistance as of the application date; and
2. Issue a new SER Decision Notice informing Claimant of its decision.



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

ZB/tm

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