

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013 66385
Issue No.: 5017, 5016,5006
Case No.: ██████████
Hearing Date: October 28, 2013
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 28, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services included ██████████ yd, FIM and ██████████, ES.

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 13, 2013, Claimant applied for SER assistance with utility/energy services and non-energy home repairs. Exhibit 1
2. On August 15, 2013, the Department sent Claimant the SER Decision Notice which found the Claimant ineligible for non-energy home repair and required that the claimant make a \$375.89 income co-payment for her water bill. Exhibit 4
3. At the time of the application the Claimant had property tax bills that were delinquent and one bill was subject to a tax foreclosure.

4. The Claimant's water bill arrears was \$407.59 as the Claimant had made a \$100 payment to stop water shut off.
5. On August 23, 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, The Department denied the Claimant's request for roof repair. Policy deems roof repair a non-energy home repair and limits the repair to a lifetime maximum of \$1500. ERM 304, pp. 3-5. (10/1/13). The following conditions must be met:

Issue Home Ownership Services payments only to save a home threatened with loss due to mortgage foreclosure, land contract forfeiture, tax foreclosure, or court ordered eviction of a mobile home from land or a mobile home park. Issue home repair payments only if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. The repair(s) must restore the home to a safe, livable condition. **SER does not pay for improvements or nonessential repairs.**

In addition, **all** of the following conditions must be met (unless specified for a particular service):

- The home is not in jeopardy of loss. (This only applies to home repairs.) Deny repairs if there is a house payment or property tax arrearage, unless a workable plan exists for paying the arrearage.
- The total amount of tax arrearage for **all** years does not exceed \$2,000. (This only applies to home ownership for taxes.) Pay only the minimum amount required to resolve the tax emergency. Do not pay until loss of the home is imminent; see Verification below.

Note: The total tax arrearage amount is the total for every year combined, not just for the tax years which assistance is being requested.

- The amount to be authorized does not exceed the home ownership services maximum of \$2,000, the energy-related home repair maximum of \$4,000 or the non-energy-related home repair maximum of \$1,500, and the issuance amount will resolve the emergency.

In this case the evidence produced at the hearing indicated that the Claimant had delinquent taxes for 2011-2012 with a total amount due of \$2,991.23. Exhibit 3. Thus based upon the tax bill presented at the hearing, the Claimant's delinquent taxes exceeded the \$2,000 home ownership services maximum and the home was in potential jeopardy of loss as the 2011 taxes were in foreclosure and no workable plan was presented. Thus it is determined that the Department correctly denied the Claimant's request for non-energy home repair regarding her roof.

As regards the Claimant's water bill, the Department conceded that it incorrectly computed the Claimant's income co-payment when it included as part of the household income the claimant's brother's income that was no longer being received. Based upon this concession by the Department, it is determined that the Department did not act in accordance with Department policy and incorrectly computed the income co-payment amount and this error must be corrected. ERM 208 (10/1/13).

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 the non-energy home repair,
- did not act in accordance with Department policy when in calculated the Income co-payment for the Claimant's water bill assistance request.

when it issued its SER Decision Notice.

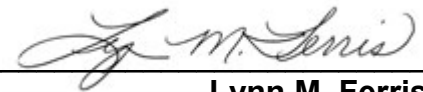
DECISION AND ORDER

Accordingly, the Department's SER decision is AFFIRMED 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. The Department shall re register the Claimant's SER application dated 8/13/13 and process the application as regards the request for utility assistance for the water bill and determine the Claimant's eligibility therefore as of the date of the application and issue a new SER Decision Notice to the Claimant.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 14, 2013

Date Mailed: November 14, 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

2013-66385/LMF

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

LMF/cl

cc:

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