

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201316590
Issue No: 5016, 5020
Case No: [REDACTED]
Hearing Date: May 8, 2013
Genesee County DHS (06)

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on December 6, 2012. After due notice, a telephone hearing was held on May 8, 2013 at which Claimant appeared and provided testimony. The department was represented by [REDACTED], an eligibility specialist with the department's Genesee County office.

ISSUE

Whether the department properly determined Claimant's eligibility for State Emergency Relief (SER) assistance?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On November 26, 2012, Claimant applied for SER assistance with his water bill in the amount of \$200.13. (Department Exhibit 1)
2. On November 27, 2012, the department mailed Claimant a State Emergency Relief Decision Notice (DHS-1419), informing him that his request for SER assistance with his water bill had been denied for the reason that his income/asset copayment was equal to or greater than the amount needed to resolve the emergency. (Department Exhibits 2, 3)
3. On November 30, 2012, Claimant submitted a hearing request protesting the denial of his application for SER assistance. (Request for Hearing)

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 policies are found in the State Emergency Relief Manual (ERM). The program assists with non-energy services, such as home ownership, relocation, home repair, utility, and burial services, as well as with energy services, such as heat, electricity, water, sewer, and cooking gas services. ERM 100.

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 302. The following are covered utility services:

- Payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. The payment must restore or continue service for at least 30 days at the current residence. However, payments for current charges are not allowed.
- A deposit (including membership fees and lease/rental payments for an on-site storage tank) required by the utility provider to begin, maintain, or restore one of the following services currently or previously the responsibility of the SER group: water, sewer and cooking fuel.
- Fees for connection, reconnection, or hookup of utility services. ERM 302.

The Department must verify an actual or possible shutoff of water, sewer or cooking gas service by:

- A disconnect notice from the utility.
- Information from the utility provider's secure Web site.
- An overdue or delinquency notice when the water or sewer is not disconnected but the arrearage is added to the local tax bill.

- The client's statement of need for cooking fuel.

The department may not provide assistance unless the payment will resolve the emergency. ERM 208. SER group members must use their available cash assets and income that will help resolve the emergency. Cash assets in excess of \$50 are considered the asset co-payment. Available income means net income in excess of the SER need standard. This is the income co-payment. The asset and income co-payments are added together to determine the SER group's total co-payment. ERM 208. The SER income need standard, set forth in ERM 208, is as follows:

<u>SER Group Size</u>	<u>Income Need Standard</u>
1	\$445
2	\$500
3	\$625
4	\$755
5	\$885
6	\$1,015

* Groups larger than 6 persons must add \$100 for each additional person to the 'group size 6.'

In this case, on November 26, 2012, Claimant requested assistance in the amount of \$200.13 to pay his water bill. On November 27, 2012, the department mailed Claimant a State Emergency Relief Decision Notice (DHS-1419), informing him that his request for SER assistance with his water bill had been denied for the reason that his income/asset copayment was equal to or greater than the amount needed to resolve the emergency.

At the time of his SER request, Claimant's net countable income was \$1,350.90 and his income need standard was \$445.00. The difference (\$1,350.90 - \$445.00) resulted in a required final copayment by Claimant of \$905.90, which was greater than the \$200.13 requested by Claimant to resolve his water bill. Accordingly, the department correctly determined that Claimant was not eligible for SER assistance with his water bill.

At the May 8, 2013 hearing, Claimant acknowledged that his monthly unearned income is \$1,350.90 but he expressed his opinion that the department was discriminating against him with respect to his application for SER assistance. However, Claimant's issue is not within the scope of authority delegated to this Administrative Law Judge pursuant to a written directive signed by the Department of Human Services Director, which states:

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make

exceptions to the department policy set out in the program manuals.

Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

Consequently, the Administrative Law Judge finds that based on the competent, material, and substantial evidence presented during the hearing, the department acted in accordance with policy in denying Claimant's November 26, 2012 SER application for assistance with his water bill.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in denying Claimant's November 26, 2012 SER application for assistance with his water bill. The department's SER eligibility decision is therefore **UPHELD**.

It is SO ORDERED.

/s/

Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 10, 2013

Date Mailed: May 10, 2013

NOTICE: Michigan Administrative Hearings 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 Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - Misapplication of manual policy or law in the hearing decision,
 - Typographical errors, mathematical errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
 - The failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

