

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201317989
Issue No.: 5016; 5025
Case No.: [REDACTED]
Hearing Date: May 2, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 2, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included [REDACTED] Assistance Payment Worker, and [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with utility services and a shelter emergency?

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 16, 2012, Claimant applied for SER assistance with utility service and with shelter emergency.
2. On November 20, 2012, the Department sent Claimant a SER Decision Notice denying both requests.
3. On December 17, 2012, the Department received Claimant's hearing request, protesting the SER denial.

CONCLUSIONS OF LAW

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 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Additionally, on November 16, 2012, Claimant filed a SER application requesting assistance with her outstanding water bill and pending eviction, and included copies of the summons, complaint and demand for possession with her application. On November 20, 2012, the Department sent Claimant a SER Decision Notice denying both requests for assistance.

SER Application for Utilities

SER assistance is available to assist with a client's payment of an arrearage to maintain or restore service for water and sewer services and is intended to prevent or restore the shut off of a utility. ERM 302 (October 2011), p 1. However, assistance with utility services is not covered when a client has a judgment for rent arrearages which includes money owed on a utility bill. ERM 302, pp 1-2. In such a case, the water service amount is considered a relocation service, not a utility service, and the utility payment would be included as part of the total amount needed to prevent eviction. ERM 302, p 2.

In its November 20, 2012 SER Decision Notice, the Department informed Claimant that it was denying her application for assistance with water and sewage services because she had failed to provide a shut-off notice. In this case, a review of the documentation Claimant provided with her SER application shows that the outstanding water bill balance was included in her landlord's Complaint for Nonpayment of Rent. Because the overdue water balance was part of what the landlord was seeking to collect with the rent arrearage, the Department did not act in accordance with Department policy when it treated the request for payment of the water bill as a SER application for utility service. Because the Department did not include the water bill in the total amount of rent arrearage sought by Claimant in her SER application for rent assistance, the Department did not act in accordance with Department policy in processing Claimant's SER application.

SER Application for Rent Assistance

The Department also testified at the hearing that it denied Claimant's application for relocation services, which includes payment of rent arrearages, because the total amount of her income/asset copayment and her shortfall (unmet required payments) was equal to, or greater than, the amount needed to resolve the emergency.

In processing an application for SER assistance with rent arrearage, the Department must verify a client's shelter expenses for the six months preceding the client's application. ERM 303, p 3. If the client has not made required payments, which are actual shelter costs, and has no good cause for the nonpayment, the client must pay the shortfall. ERM 303, p 3; ERM 204 (April 2011), p 1. Good cause for a failure to

prevent a housing emergency exists if either of the following conditions are met: (i) the SER group's net countable income from all sources during each month the group failed to pay their obligations was less than the amount shown for the SER group size in the good cause table in ERM 204 (which was \$240 for Claimant's SER group consisting of herself and her son), provided that the income was not reduced because of a disqualification of SSI or department benefits for failure to comply with a program requirement; or (ii) the emergency resulted from unexpected expenses related to maintaining or securing employment, which expenses equal or exceed the monthly obligation. ERM 204 (April 2011), pp 1-2.

In this case, Claimant credibly testified that she had been a victim of identity theft, resulting in the theft of the RSDI income that was direct-deposited in her bank account in September 2012 and October 2012. Claimant credibly testified that she was unable to pay her rent because this theft resulted in her having no income during the months at issue. She also testified that she had informed the Department of these circumstances at the time of her SER application. The Department's testimony at the hearing established that it did not consider whether Claimant had good cause for failing to make her September 2012 and October 2012 required payments for rent. Further, the Department did not present any evidence concerning the calculation of any income copayment. Thus, the Department did not act in accordance with Department policy when it denied Claimant's SER application on the basis that her income copayment and shortfall exceeded the amount needed to resolve the emergency.

DECISION AND ORDER

Based on the above Findings of Fact and Conclusions of Law, and for reasons stated on the record, the Administrative Law Judge concludes that the Department did not act in accordance with Department policy when it denied Claimant's application for assistance with utility services and with rent eviction. Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's November 16, 2012 SER application;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision;
3. Issue payments to Claimant's providers, in accordance with Department policy, for any SER benefits Claimant is eligible to receive; and

4. Notify Claimant in writing of its decision in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/16/2013

Date Mailed: 5/16/2013

NOTICE: 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.

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 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 error, or other obvious errors in the hearing decision that effect the substantial rights of the 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

