

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201323150
Issue No.: 5016
Case No.: [REDACTED]
Hearing Date: June 6, 2013
County: Wexford

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 June 6, 2013 from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] (Claimant's spouse) and [REDACTED] (Claimant). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Assistance Payments Supervisor) and [REDACTED] (Hearings Coordinator/Family Independence Manager).

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with energy or utility service(s)?

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 January 2, 2013, Claimant applied for SER assistance with energy service (propane tank).
2. On January 4, 2013, the Department sent notice of the application denial to Claimant.
3. On January 11, 2013, 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 1993 AACS R

400.7001-400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

State Emergency Relief (SER) prevents serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101.

ERM 101 sets forth the general requirements for SER. SER applicants must meet all of the following: (1) complete the application process; (2) meet financial and non-financial requirements; (3) have an emergency which threatens health or safety and can be resolved through issuance of SER; (4) take action within their ability to help themselves (i.e. obtain potential resources and/or apply for assistance); (5) not have caused the emergency (See ERM 204, Client-Caused Emergencies); and (6) cooperate in providing information about income, assets, living arrangements, and other persons living in the home. ERM 101.

SER does not assist a group who failed to use their available money to prevent a shelter, energy or utility emergency. ERM 204. A client-caused emergency is when an SER group fails to pay required payments for the six month period prior to the month of application. ERM 204. Note: This does not apply to categorically eligible cases; see ERM 301, Energy Services. ERM 204. If the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied unless good cause is granted. ERM 103.

The SER applicant must meet the applicable asset test. Assets are either cash or non-cash. ERM 205. The SER group must use countable cash assets to assist in resolving their emergency. ERM 205. The protected cash asset limit is \$50. The Department excludes the first \$50 of an SER group's cash assets. ERM 205. The amount in excess of the protected cash asset limit is deducted from the cost of resolving the emergency and is called the asset copayment. ERM 205.

Payment may be made up to the available fiscal year cap for the necessary charges to deliver a 30-day supply of fuel for households that heat with deliverable fuel (fuel oil, propane or coal). ERM 301. For fuel oil and propane, a delivery to fill the tank is considered a 30-day supply. ERM 301. Payment may be authorized for a full tank or as much as can be paid based on the amount remaining in the fiscal year cap. ERM 301.

To be eligible for energy service assistance, an SER group must make required payments toward their energy service bills unless the case is categorically eligible. ERM 301. The required payment amounts are based on the group size and service (heat or electric). See the Table of Monthly Energy Required Payments in ERM 301.

Energy required payments are met if the amounts paid by the group for heating fuel and/or electricity equal or exceed the table amounts for the required payment period. ERM 301.

The Department must verify the need for deliverable fuels by the statement of the group and the date of application for weatherization services by obtaining a statement from the

local community action agency. ERM 301. The Department must also document need in the SER packet; see BAM 300, The Case Record. ERM 301.

A bill must be obtained before authorizing a payment. ERM 301. In the absence of an actual bill, fax or email received directly from the energy provider, a scanned copy of the bill is also acceptable as long as it includes all the pertinent information that would be included on the actual bill. ERM 301. **Exception:** The specialist may only use a DHS-223, Documentation Record, for deliverable fuels, wood and other non-traditional heating source estimates or to clarify discrepancies. The DHS-223 may not be used as a verification source for natural gas, non-heat electric or other energy types that receive monthly statements and shut off notices. Documentation on the DHS-223 must include: (1) date; (2) client name and case number; (3) amount needed to resolve the emergency; (4) name on account; (6) any other pertinent account information; and (7) the name of the person at the utility company who provided the information along with the signature of the DHS staff person obtaining the information.

The Department must send a Decision Notice (DHS-1419) to the client for every energy request. ERM 301. The notice must include the required payment amounts to inform the client of their obligation; see ERM 103, Application Procedures. ERM 301.

Here, the Department denied Claimant's application for SER seeking energy services for propane because the income/asset copayment was equal to or greater than the amount needed to resolve the emergency. Specifically, the Department contends that Claimant provided a copy of his current checking account which revealed a balance of \$678.24. The Department suggested that Claimant provide a second bank statement if Claimant did not believe this one reflected his true assets. The Department also discovered that Claimant had a \$400.00 credit on their account with [REDACTED] plus a \$50.00 credit from [REDACTED]. The Department also learned that Claimant was at a 50% level at the time of application. Claimant, on the other hand, argued that the \$678.24 did not accurately reflect his disposable income as he had additional expenses that would be deducted later. Claimant also testified that he was unable to provide the Department with an additional bank statement due to travel concerns.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and all the evidence in the record. Based on the competent, material, and substantial evidence presented during the hearing, this Administrative Law Judge finds that the

Department properly denied Claimant's SER application because his asset copayment was greater than or equal to the amount needed to resolve the emergency.

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 properly denied Claimant's SER application for assistance with energy and utility services.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for reasons stated on the record, finds that the Department acted properly.

Accordingly, the Department's decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 10, 2013

Date Mailed: June 10, 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 mailing 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

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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

CAP/aca

cc:

