

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

IN THE MATTER OF:

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

Reg. No.: 2013-24378
Issue No.: 5006
Case No.: ██████████
Hearing Date: June 19, 2013
County: Wayne (35)

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 three-way telephone hearing was held on June 19, 2013, from Detroit, Michigan. Claimant and her daughter/Authorized Hearing Representative (AHR) appeared and testified. Participants on behalf of the Department of Human Services (Department) included ██████████, Assistant Payment Worker; ██████████, Family Independence Manager; and ██████████ Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's State Emergency Relief (SER) application?

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 January 9, 2013, Claimant applied for State Emergency Relief (SER) assistance with water, electricity and heat.
2. On January 9, 2013, the Department sent Claimant a SER Decision Notice informing her that her request for assistance with water was denied and that her request for assistance with electricity and heat was approved with a copayment. (Exhibit 1).
3. On January 14, 2013, Claimant requested a hearing disputing the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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

In this case, Claimant submitted an application for SER assistance with water, heat and electricity on January 9, 2013. On January 9, 2013, the Department sent Claimant a SER Decision Notice informing her that her request for assistance with water was denied and that her request for assistance with electricity and heat was approved and that the Department would pay \$450.00 towards electricity and \$450.00 towards heat. Claimant was informed that she would be required to make a copayment prior to the Department contributing the approved amount. (Exhibit 1).

Eligible households may receive assistance with heat and electricity costs under the energy services program. ERM 301 (October 2012), p. 1. The Department can award payments toward heat and electricity up to the fiscal year cap if it will resolve the emergency. The fiscal year cap for both natural gas/wood and electric is \$450.00. ERM 301, p.8. Prior to authorizing the department's portion of the cost of services, verification that the copayment, shortfall or contribution has been paid by the client is needed. ERM 301, p.8. The total copayment is the amount the SER group must pay toward their emergency. ERM 208 (October 2012), p. 1. Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, p. 1.

According to the SER Decision Notice, Claimant was approved for assistance up to the fiscal year cap of \$450.00 for both heat and electricity. (Exhibit 1). The Department testified that at the time of the application, Claimant's DTE bill totaled \$2,117.71. The Department determined that Claimant had a copayment of \$714.09 for electricity and \$503.62 for heat. This amount, added to both fiscal year caps of \$450.00 equals the total amount of Claimant's DTE bill. Therefore, the Department acted in accordance with Department policy when it approved Claimant's request for SER assistance with heat and electricity up to the fiscal cap and required that she contribute the remainder, to cover the entire cost of her DTE bill. As such, the Department's decision with respect to heat and electricity is AFFIRMED.

Claimant also submitted an application for SER assistance with water or sewage. According to ERM 302, the SER group has to pay the minimum monthly amounts for water/sewage for the last six months. The required payment period is always the six-month period prior to the month the SER group applies. Unmet required payments are also referred to as a shortfall. ERM 302 (October 2011), p. 2. At the hearing, the Department testified that it denied Claimant's request because she had unmet required

payments on her water/sewage account. The SER Decision Notice does not support the Department's testimony, however.

The SER Decision Notice indicates that the \$245.53 that the Department required Claimant to pay was not a shortfall connected to the unmet required payments as the Department testified; but rather, it was an income/asset copayment. (Exhibit 1). In most cases, cash assets in excess of \$50 result in an asset copayment. ERM 208, p. 1. An asset copay cannot be reduced or waived. ERM 208, p. 1. A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in the SER Income Need Standards for Non-Energy Services. ERM 208, pp. 1, 4. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. ERM 208, p. 1. This is the income copayment. ERM 208, p. 1. The income and asset copayments combined together determine the SER group's total copayment. ERM 208, p. 1.

In this case, the Department did not present any evidence regarding which of Claimant's income and asset information was relied on when making the determination that an income/asset copayment of \$245.53 was required. Therefore, the Department did not satisfy its burden that it did act in accordance with Department policy when it denied Claimant's SER request for assistance with water/sewage. As such, the Department's decision with respect to water/sewage is REVERSED.

DECISION AND ORDER


The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department acted in accordance with Department policy when it approved Claimant's request for SER assistance with heat and electricity with a copayment. Accordingly, the Department's decision with respect to heat and electricity is AFFIRMED.

It is further found that the Department did not act in accordance with Department policy when it denied Claimant's request for SER assistance with water/sewage. Accordingly, the Department's decision with respect to water/sewage 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 January 9, 2013 application for SER with respect to water/sewage;
2. Begin reprocessing the application in accordance with Department policy and consistent with this Hearing Decision; and

3. Issue a new SER Decision Notice for the application with respect to water/sewage.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: July 10, 2013

Date Mailed: July 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. (60 days for FAP cases)

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 affect the substantial rights of the claimant,
 - 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

ZB/cl

cc:

