

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

IN THE MATTER OF:

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

Reg. No.: 2013-42963
Issue No.: 5022
Case No.: ██████████
Hearing Date: July 18, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 July 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Eligibility Specialist. Also, ██████████ was present via telephone as Claimant's interpreter.

ISSUE

Did the Department properly deny Claimant's request 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 April 10, 2013, Claimant applied for SER assistance for mortgage foreclosure, non-heat electricity, and heat. See Exhibit 1.
2. On April 11, 2013, the Department sent notice of the application denial to Claimant for all three SER assistance requests. Exhibit 1.
3. On April 22, 2013, the Department received Claimant's hearing request, protesting the SER denial. Exhibit 1.

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 Department of Human Services State Emergency Relief Manual (ERM).

As a preliminary matter, Claimant's hearing request indicated that he was disputing his cash denial as well. See Exhibit 1. However, it was discovered during the hearing that it was related to his SER hearing request. Thus, this hearing decision will only address Claimant's SER denial.

Non-Heat Electricity

On April 10, 2013, Claimant applied for SER assistance for non-heat electricity in the amount of \$634.22. Exhibit 1. On April 11, 2013, the Department denied Claimant's request for non-heat electricity because he did not have a shutoff notice. Exhibit 1.

Low-income households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (February 2013), p. 1. When the group's heat or electric service for their current residence is in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301, p. 1. The amount of the payment is the minimum necessary to prevent shutoff or restore service, up to the fiscal year cap. ERM 301, p. 1. Current bills that are not subject to shutoff should not be included in the amount needed. ERM 301, p. 1.

The Department verifies actual or threatened shutoff or the need for reconnection of natural gas or electricity, by contacting the energy company. ERM 301, p. 7. The contact can be in the form of a written notice, telephone call, fax, email or information on the provider's secure website. ERM 301, p. 7.

At the hearing, Claimant testified that he was not sure if he provided the shutoff notice. The Department testified that Claimant did not provide it a shutoff notice. The Department testified that it contacted the energy company and stated that Claimant's non-heat electricity was not in threat of shutoff. Even a review of the Claimant's energy account statement does not indicate any past due amount. Exhibit 1. The account statement actual indicates that Claimant is on a payment plan in the amount of \$150. See Exhibit 1.

Based on the foregoing information and evidence, the Department properly denied Claimant's SER assistance request for non-heat electricity because Claimant did not provide a shutoff notice and was not in threat of an emergency. ERM 301, pp. 1 and 7.

Heat – Natural Gas/Wood/Other

On April 10, 2013, Claimant applied for SER assistance for heat – natural gas/wood/other in the amount of \$186.71. Exhibit 1. On April 11, 2013, the Department denied Claimant's request for heat because his asset copayment was greater than the amount needed to resolve the emergency. Exhibit 1.

The Department verifies and counts all non-excluded assets of SER group members for all SER services with every application. ERM 205 (August 2012), p. 1. The Department counts only available assets when determining SER eligibility. ERM 205, p. 1. The Department considers an asset totally available unless it is claimed and verified that a portion of the asset's value belongs to another individual. ERM 205, p .1.

The SER group must use countable cash assets to assist in resolving their emergency. ERM 205, p .1. Cash assets include amounts on deposit in banks, savings and loan associations, credit unions and other financial institutions. ERM 205, p. 1. The protected cash asset limit is \$50. ERM 205, p .1. The Department excludes the first \$50 of an SER group's cash assets. ERM 205, p .1. 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, p .1. An asset copay cannot be reduced or waived. ERM 208 (October 2012), p. 1.

The Department presented Claimant's submitted checking account statement. See Exhibit 1. The statement indicates that Claimant's ending balance on February 21, 2013 was \$252.75. The Department testified that it excludes the first \$50 as per policy. ERM 205, p. 1. This results in an excess assets balance of \$202.75. This amount is greater than the \$186.71 that Claimant requested. See Exhibit 1. Thus, the Department testified that it denied Claimant's request because his assets were greater than the heat amount request.

Claimant testified that he has other bills to pay. Moreover, he testified that the account balance indicates negative balances throughout the month of February 2013. See Exhibit 1.

Based on the foregoing information and evidence, the Department properly denied Claimant's SER assistance request for heat because Claimant's asset balance was great than his heat request. ERM 205, p. 1. Claimant must use countable cash assets in his checking account to assist himself in resolving his heat emergency. ERM 205, p. 1.

Mortgage/Land Contract

On April 10, 2013, Claimant applied for SER assistance for mortgage foreclosure in the amount of \$4,500. Exhibit 1. On April 11, 2013, the Department denied Claimant's request for mortgage assistance because his home ownership was not affordable according to SER requirements. Exhibit 1.

Housing affordability is a condition of eligibility for SER and applies to Home Ownership Services. ERM 207 (April 2011), p. 1. Total housing obligation means the total amount the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. ERM 207, p. 1. The Department will deny SER if the group does not have sufficient income to meet their total housing obligation. ERM 207, p. 1. The total housing obligation cannot exceed 75 percent of the group's total net countable income. ERM 207, p. 1.

The Department determines whether an SER group meets the Housing Affordability requirement by multiplying the group's total net countable income by 75 percent. ERM 207, pp. 1-2. The result is the maximum total housing obligation the group can have based on their income, and be eligible for SER housing services, and the Department will refer to a table in ERM 207 for any increases in the basic 75 percent test if the group is renting and heat, electric or water/cooking gas is included in the rent. ERM 207, p. 2. The increase in 75 percent calculation was not present in this case.

At the hearing, the Department testified that Claimant's mortgage was \$1,055. The Department then testified that Claimant's gross income was \$1,070.95, which was comprised of the following amounts from the Social Security Administration (SSA): \$608 in Retirement, Survivors, and Disability Insurance (RSDI); \$284 in RSDI; and \$178.95 in Supplemental Security Income (SSI). Claimant did not dispute these amounts above. The Department testified that when it multiplied the \$1,070.95 by 75 percent, that resulted in the amount of \$803. The Department testified that \$803 is lower than the Claimant's mortgage of \$1,055. Thus, Claimant did not meet the Housing Affordability requirement.

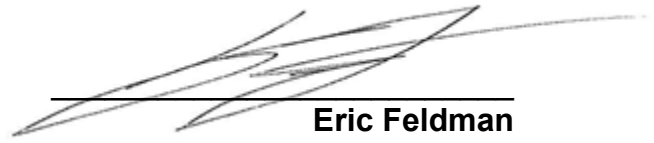
Claimant testified that the Department used the incorrect mortgage amount. Claimant testified that his mortgage amount was \$2,225.79 as indicated in his mortgage statement. See Exhibit 1.

Based on the foregoing information and evidence, the Department properly denied Claimant's SER assistance request for home ownership because his home ownership was not affordable according to SER requirements. ERM 207, pp. 1-2. It must be noted that the Department used gross income rather than net income as required per ERM 207. ERM 207, pp. 1-2. However, this is harmless error, as Claimant still does not meet the Housing Affordability requirement. Moreover, Claimant's testimony that his mortgage is \$2,225.79 makes it even more difficult for the Claimant to meet the housing requirement.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for reasons stated above and on the record, finds that the Department did act properly. did not act properly.

Accordingly, the Department's SER decision is AFFIRMED REVERSED for the reasons stated above and on the record.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 7, 2013

Date Mailed: August 7, 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 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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]