

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-43734
Issue No.: 5016
Case No.: [REDACTED]
Hearing Date: July 22, 2013
County: Oakland (63-03)

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 July 22, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly process 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 March 27, 2013, Claimant applied for SER assistance with energy or utility service.
2. On April 8, 2013, the Department sent Claimant an SER Decision Notice notifying her that the Department would pay \$8.05 upon verification of her payment of \$335.18 to her energy provider.
3. On April 19, 2013, the Department received Claimant's hearing request, protesting the SER decision.

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 Mich Admin Code, Rules 400.7001 through 400.7049. Department policies are found in the Department of Human Services State Emergency Relief Manual (ERM).

Additionally, on March 27, 2013, Claimant applied for SER assistance with her outstanding gas bills. In an April 8, 2013, SER Decision Notice, the Department notified Claimant that it would pay \$8.05 upon verification of her payment of a \$335.18 income/asset copayment to her service provider. Claimant requested a hearing, disputing the calculation of her copayment.

In determining a client's eligibility for energy service assistance, the Department must budget the assets of all household members. ERM 301, p. 3. If the client has non-exempt cash assets in excess of \$50, the client will have an asset copayment in an amount equal to the cash in excess of \$50. ERM 208 (March 2013), p. 1; ERM 205 (March 2013), p. 1. Cash assets include amounts on deposit in a financial institution, excluding the budgetable portion of income deposited into the account. ERM 205, pp. 2-3. An asset copayment cannot be reduced or waived. ERM 208, p. 2.

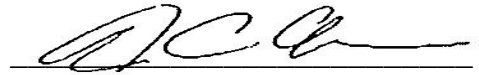
In this case, the Department testified that it relied on the cash deposited in Claimant's LOC Federal Credit Union to conclude that she had an asset copayment of \$335.18. The statement from LOC relied on by the Department shows that Claimant's starting balance on February 1, 2013, was \$337.94, but that a withdrawal was made on February 7, 2013, bringing Claimant's balance to \$0. Therefore, Claimant had no cash assets on deposit at [REDACTED] for the balance statement period considered by the Department, and the Department improperly determined that Claimant's energy service payment was subject to an asset copayment based on the [REDACTED] deposit.

However, at the hearing, Claimant also testified that she had received assistance from a community agency in paying the past due gas bill at issue in her March 27, 2013, SER application. SER assistance is available when a client has an emergency which threatens the health or safety and can be resolved through issuance of SER funds. ERM 101 (March 2013), p. 1. The Department may not authorize a SER payment unless it will resolve the emergency. ERM 208, p. 1. Because Claimant received assistance to pay the shut-off amounts due to her gas provider, there is no longer an emergency that SER assistance can resolve. Accordingly, the Department's error in this case was harmless.

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 error in assessing an asset copayment in this case was harmless.

Accordingly, the Department's decision is AFFIRMED.



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

Date Signed: July 30, 2013

Date Mailed: July 30, 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,
 - 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/pf

cc:

