

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-51474
Issue No.: 5022
Case No.: [REDACTED]
Hearing Date: August 8, 2013
County: SSPC-East (98)

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 August 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Assistant Payment Supervisor.

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance for non-heat electricity and heat?

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 May 28, 2013, Claimant applied for SER assistance for non-heat electricity and heat.
2. On May 29, 2013, the Department sent notice of the application denial to Claimant. Exhibit 1.
3. On June 6, 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, Mich Admin Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

In this case, on May 28, 2013, Claimant applied for SER assistance for non-heat electricity and heat. On May 29, 2013, the Department sent notice of the application denial to Claimant. Exhibit 1. Specifically, the notice denied Claimant's non-heat electricity in the amount of \$ [REDACTED] due to her excess income. Exhibit 1. Also, the notice denied Claimant's heat assistance in the amount of \$ [REDACTED] due to her excess income. 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.

There are no income copayments for SER energy services. ERM 208 (October 2012), p. 1. With respect to income, clients are either eligible or they are not. ERM 208, p. 1. For a group to be eligible for energy services, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period, cannot exceed the standard for SER energy/Low Income Home Energy Assistance Program (LIHEAP) services for the number of group members. ERM 208, pp. 1 and 4. If the income exceeds the limit, the request must be denied. ERM 208, p. 1.

The Department establishes the SER countable income period and determines the SER group's net countable income based on the application date and entry of income information in the data collection screens. ERM 206 (October 2011), p. 1. The SER budget computation period is 30 days. ERM 206, p. 1. This is referred to as the countable income period. ERM 206, p. 1. The first day of the countable income period is the date the local office receives a signed application for SER. ERM 206, p. 1. The Department considers unearned income for the countable income period. ERM 206, p. 1. The Department uses the net amount received for Social Security benefits. ERM 206, p. 1. To determine net unearned income, the Department must deduct payments for health insurance and Medicare premiums that will not be reimbursed from the gross amount. ERM 206, p. 4.

At the hearing, it was not disputed that Claimant was a group size one. Exhibit II, SER Income Need Standards for Energy Services, states that a group size of one cannot exceed \$ [REDACTED] in the 30-day countable income period. ERM 208, p. 4. The Department testified that Claimant's unearned income at the time of application of her Retirement, Survivors, and Disability Insurance (RSDI) payment was \$ [REDACTED]. See SOLQ, Exhibit 1. The Department testified that this amount exceeded the policy limit and thus, Claimant was denied due to excess income.

Claimant testified that she only received \$ [REDACTED] in RSDI at the time of application. Moreover, Claimant testified that the Department did not take into consideration her shelter expenses, bills, and other expenses.

A review of the SOLQ document indicates that Claimant's net monthly benefit RSDI amount is \$ [REDACTED]. See Exhibit 1. Moreover, the SOLQ document does indicate that Claimant's gross RSDI amount is \$ [REDACTED]. See Exhibit 1. However, Claimant has \$ [REDACTED] in Part B Premium Medicare deducted from each payment. If the \$ [REDACTED] Medicare premium amount is subtracted from the \$ [REDACTED] RSDI payment, this results in the amount of \$ [REDACTED]. The SOLQ document, though, indicates a net monthly benefit payment of \$ [REDACTED]. Exhibit 1. It was unclear what other deductions were occurring in Claimant's RSDI payments to result in the total net amount of \$ [REDACTED].

Based on the foregoing information and evidence, the Department improperly denied Claimant's application for non-heat electricity and heat. ERM 206 states to determine net unearned income, the Department must deduct payments for health insurance and Medicare premiums that will not be reimbursed from the gross amount. ERM 206, p. 4. The Department used Claimant's gross income when it denied her SER request. The Department should have deducted Claimant's \$ [REDACTED] in Part B Premium Medicare when it determined if her unearned income had exceeded the limits. This amount is found to be \$ [REDACTED]. However, the SOLQ screen indicates that the net monthly benefit amount is \$ [REDACTED]. See Exhibit 1. The Department was not able to testify why Claimant's net amount is \$ [REDACTED] as well. Nevertheless, both amounts are below the \$ [REDACTED] SER Income Need Standards for Energy Services for a group size of one.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly denied improperly denied

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: 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.

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

1. Initiate reregistration of Claimant's May 28, 2013 SER application;
2. Begin reprocessing the application/recalculating the SER budget for May 28, 2013, ongoing, in accordance with Department policy;
3. Begin issuing supplements to Claimant for any SER benefits she was eligible to receive but did not from May 28, 2013, ongoing; and

4. Begin notifying Claimant in writing of its SER decision in accordance with Department policy.



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

Date Signed: August 26, 2013

Date Mailed: August 26, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2013-51474/EF

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EF/las

cc:

