

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-67292
Issue No.: 5020
Case No.: [REDACTED]
Hearing Date: November 6, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 6, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's State Emergency Relief (SER) application based on an income and asset copayment exceeding the cost of emergency.

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 [REDACTED]/13, Claimant applied for SER seeking assistance for a mortgage arrearage.
2. Claimant was a member of a three-person household.
3. Claimant's SER application sought \$1700.35 to pay her mortgage arrearage.
4. As of the date of SER application, Claimant had monthly employment gross income of \$3750.

5. As of the date of SER application, Claimant had \$150 in cash assets.
6. On [REDACTED]/13, DHS denied Claimant's SER application due to Claimant's income and asset copayment exceeding the amount requested.
7. On [REDACTED]/13, Claimant requested a hearing to dispute the SER application denial.

CONCLUSIONS OF LAW

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049. Department policies are contained in the Department of Human Services Emergency Relief Manual (ERM).

Claimant requested a hearing to dispute an SER application denial. It was not disputed that DHS denied the application based on Claimant's required copayment exceeding the cost of the emergency.

Claimant did not make any specific argument to the denial other than she thought that she should be eligible for SER. To determine whether DHS properly denied the application, SER budget procedures must be examined.

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (3/2013), p. 1. DHS is to not authorize a SER payment unless it will resolve the emergency. *Id.*

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 Exhibit I, SER Income Need Standards for Non-Energy Services. *Id.*

DHS budgeted a monthly gross income for Claimant of \$3488 (see Exhibit 1). DHS could not explain how the gross monthly was calculated. Claimant testified that she received \$45,000. Dividing Claimant's annual income by 12 results in a monthly gross employment income of \$3750. For purposes of this decision, the lower and more favorable amount of income (\$3488) will be accepted as the proper amount to budget for Claimant's income.

Net income from employment or self-employment must be determined by deducting allowable expenses of employment from the gross amount received. ERM 208 (3/2013), p. 5. Expenses of employment are limited to the following: mandatory withholding taxes (25 percent of the gross), deductions required by the employer as a condition of employment, deductions for health insurance, court ordered child support and/or cost of dependent care up to \$200. *Id.*, pp. 5-6.

Claimant testified that the only relevant expenses were withholding taxes and dependent care of \$200/month. Subtracting 25% and \$200 from Claimant's monthly gross income results in a net countable income of \$2416.

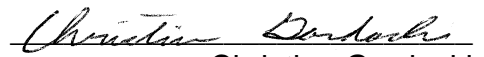
Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. BEM 206 (3/2013), p. 3. This is the income copayment. *Id.* The income need standard for a group size of three is \$625. *Id.*, p. 6.

Subtracting Claimant's need standard from her countable net income results in an income copayment of \$1791. It was not disputed that Claimant required an amount less than her income payment to resolve her emergency. Because Claimant's income copayment exceeded her SER need, the DHS denial of Claimant's SER application was proper.

It should be noted that DHS also factored a \$100 asset copayment into the denial. The asset copayment need not be considered because the income copayment, by itself, was sufficient to deny the SER application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's SER application. The actions taken by DHS are **AFFIRMED**.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 12/2/2013

Date Mailed: 12/2/2013

NOTICE OF APPEAL: 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.

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).

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

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

CG/hw

cc:

