

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 20144575
Issue No(s).: [REDACTED]
Case No.: [REDACTED]
Hearing Date: December 17, 2013
County: Wayne

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 December 17, 2013, from Lansing, 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 utility/energy services?

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 September 16, 2013, Claimant applied for SER assistance with utility/energy services.
2. On September 17, 2013, the Department sent Claimant the SER Decision Notice.
3. On September 30, 2013, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the SER decision.

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

In the case at hand, the Department approved Claimant's SER application contingent upon Claimant making a co-payment of [REDACTED]. Claimant filed her hearing request disputing the co-payment amount assigned. At the hearing, the Department representative testified that the co-payment amount resulted from income attributed to Claimant's SER group. He testified that the income came from a [REDACTED] who was living with Claimant and receiving SSI.

Claimant testified that [REDACTED] was a renter and that she took on a renter as a result of her losing her job. She further testified that she indicated on her SER application that [REDACTED] was a renter. The Department did not provide a copy of the application or a copy of the budget used to determine the amount of the co-pay.

Policy states that when determining income, the income of the entire SER group must be included. (ERM 206). Therefore, the SER group must be established to determine how to attribute income. In relation to the SER group, policy states as follows:

DEPARTMENT POLICY

Determine State Emergency Relief (SER) eligibility for the group as a whole. SER groups are the basic unit of SER eligibility. Verify income, assets and potential resources of all group members.

A single SER group consists of persons who occupy the same home. Home means the place where the members of the SER group keep their personal belongings and sleep. A home may be an apartment, a house, a mobile home, or a rented room. Consider a homeless family or group of individuals as a single SER group if they previously lived together in the same home and plan to do so again when they find permanent housing. (ERM 201, page 1, 3/1/2013).

Excluded Group Members

Do not include the following persons in the SER group.

Visitors in the home who do not normally live with the SER group.

Renters who live with the SER group, provided a fair market rental rate is paid. Include the rental income in determining the SER group's eligibility. The SER group's landlord, provided the group pays fair market rent to live in the home.

See Fair Market Rents by County in the current Information Packet (DHS Publication 790) online at www.michigan.gov/dhs-publications, in the Other category.

A person physically present in the home who claims and verifies that they do not have any responsibility for meeting household emergencies. A person who desires exclusion on this basis has the burden of providing proof of the following:

The emergency does not adversely affect the person requesting exclusion.

The person will not benefit if the group's application for SER is approved. (ERM 201, pages 1-2, 3/1/2013).

Accordingly, if Claimant stated on her application that Mr. Dawson was a renter, his income should not have been included in determining the SER group's income; rather only the rental amount he was paying to Claimant should have been included. However, the Department did not produce Claimant's SER application or the eligibility budget for examination.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department

failed to satisfy its burden of showing that it acted in accordance with Department policy

when it issued its SER Decision Notice.

DECISION AND ORDER

Accordingly, the Department's SER decision is AFFIRMED **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination of Claimant's eligibility for SER services as of the date of application.
2. If Claimant is found to be otherwise eligible, issue benefits in accordance with policy.



Christopher S. Saunders
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 01/08/2014

Date Mailed: 01/09/2014

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

CS/sw

cc:

