

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

IN THE MATTER OF:



Reg. No.: 2014-13272
Issue No.: 5008
Case No.: [REDACTED]
Hearing Date: February 27, 2014
County: Wayne (31)

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, an in-person hearing was held on February 27, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly determined Claimant's State Emergency Relief (SER) eligibility for rental assistance.

The second dispute is whether Claimant is entitled to administrative hearing review for a dispute that occurred following the submission of Claimant's hearing request.

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] Claimant applied for SER assistance for rent.
2. On [REDACTED], DHS approved Claimant for a \$620 SER payment, subject to a \$1020 copayment by Claimant.
3. On [REDACTED], Claimant requested a hearing to dispute the requirement of a copayment prior to receiving rental assistance.

4. On [REDACTED], Claimant provided DHS with proof of a \$1020 copayment.
5. Claimant did not submit a hearing request to dispute the failure by DHS to process an SER payment towards Claimant's rental assistance.

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 final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

Prior to a substantive analysis, it should be noted that Claimant's hearing request listed that she had an authorized hearing representative (AHR). The AHR did not appear for the hearing. During the hearing, Claimant waived her right to representation.

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization.

Claimant requested a hearing to dispute an SER determination for rent assistance. DHS approved Claimant for \$620 in rental assistance, but DHS required Claimant to pay \$1020 by [REDACTED] before any payment was issued.

The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. ERM 208 (10/2013), p. 3. Verification that the contribution has been paid must be received before any SER payment can be made. *Id.*

During the hearing, Claimant and DHS agreed that Claimant requested \$1800 in SER to stop eviction. An SER Decision Notice (Exhibit 1) evaluated Claimant for a \$1640 request. For purposes of this decision, \$1640, the amount creating the smaller copayment for Claimant, will be accepted as the amount of assistance requested by Claimant.

It was not disputed that Claimant was a member of a three-person household. The maximum amount of SER rental assistance available for a three-person group is \$620. ERM 303 (10/2013), p. 7. Based on a \$1640 SER rent assistance request, Claimant's copayment would be \$1020, the same amount calculated by DHS. It is found that DHS properly calculated Claimant's SER copayment.

During the hearing, Claimant testified that she now disputes a failure by DHS to pay \$620 in SER funds after Claimant submitted proof of her copayment. It could be reasonably contended that Claimant should have requested a separate hearing to

dispute the SER denial because Claimant is raising a different dispute. Though Claimant's dispute is different, Claimant's original and updated SER dispute concern how DHS processed Claimant's SER application dated [REDACTED]. For the sake of efficiency, Claimant's updated dispute will be addressed in this decision.

The testifying DHS specialist stated that Claimant's original SER decision mistakenly factored income that Claimant did not have. DHS explained that once Claimant's income was accurately budgeted, DHS determined that Claimant could not afford her rent (see Exhibit 4) and Claimant's SER was denied.

The SER budget determining that Claimant could not afford her rent was not presented. DHS credibly presented testimony that the SER denial factored a Claimant rental obligation of \$567. Claimant receives subsidized housing. Claimant testified that her rent decreased to \$264/month for 11/2013 because of her \$1020 payment to her landlord.

Claimant contended that DHS should have determined her SER eligibility based on a \$264 monthly rent obligation. Claimant contended that she sufficiently reported the decrease in rent to DHS. To support her testimony, Claimant presented a letter from her landlord (Exhibit 2). The letter states that if Claimant pays \$1800 by [REDACTED] then Claimant is eligible to a rental rate which is 30% of her monthly income. The letter implies a rental reduction, however, DHS cannot be expected to calculate Claimant's rental rate. DHS also cannot assume that Claimant would make a copayment, particularly when Claimant requested a hearing disputing that she should have to pay a copayment.

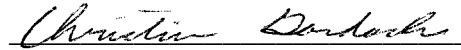
Claimant also presented a second letter (Exhibit 3) which stated that Claimant's rent was \$567. Claimant's letter tended to establish that Claimant's rental obligation did not change. Based on the presented evidence, it is found that DHS properly determined Claimant's SER eligibility based on a \$567 rental obligation.

Housing affordability is a condition of eligibility for SER and applies to Relocation Services. ERM 207 3/2013), p. 1. DHS is to authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. *Id.* An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. *Id.*

It was not disputed that Claimant's rental obligation exceeded her income. Accordingly, DHS properly determined that Claimant's rent was not affordable, and therefore, properly denied Claimant's SER application. Claimant's proper remedy is to reapply for SER if threatened again with eviction.

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 dated [REDACTED]. The actions taken by DHS are **AFFIRMED**.



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

Date Signed: 3/21/2014

Date Mailed: 3/21/2014

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

CG/hw

cc:

