

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201427012
Issue No.: 5008
Case No.: [REDACTED]
Hearing Date: March 12, 2014
County: Oakland County DHS #02

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 March 12, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] and [REDACTED] [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly denied the Claimant's State Emergency Relief (SER) application?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant submitted an application for State Emergency Relief (SER) benefits seeking assistance with his utility obligations on January 14, 2014.
2. The Claimant has a 401(k) retirement account with a countable value of \$15,000.
3. On January 21, 2014, the Department denied the Claimant's State Emergency Relief (SER) application.
4. The Department received the Claimant's request for a hearing on January 31, 2014, protesting the denial of his State Emergency Relief (SER) application.

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. Family Independence Agency (FIA or agency) policies are found in the State Emergency Relief Manual (ERM).

The State Emergency Relief (SER) group must use countable cash assets to assist in resolving their emergency. The protected cash asset limit is \$50. Exclude the first \$50 of an SER group's cash assets. Department of Human Services Emergency Relief Manual (ERM) 205 (March 1, 2013), p 1.

On January 14, 2014, the Claimant submitted an application for State Emergency Relief (SER) seeking assistance with his utility bills. The Claimant reported to the Department that he has a 401(k) retirement account with a balance of \$15,000. On January 21, 2014, the Department denied the Claimant's State Emergency Relief (SER) application.

State Emergency Relief (SER) applicants are required to use all resources at their disposal to resolve their emergency before the Department may grant benefits. The Claimant has a 401(k) account that is an available resource and is considered a cash asset. The Department will exclude the first \$50 of cash assets when determining eligibility for State Emergency Relief (SER) benefits, and the non-excluded portion. Any cash assets in excess of the excluded amount will require the applicant to pay a co-payment.

In this case, the Claimant's countable cash assets, less the \$50 exclusion, would require him to make a co-payment that would be greater than the amount needed to resolve his emergency. Therefore, the Department denied the Claimant's State Emergency Relief (SER) application.

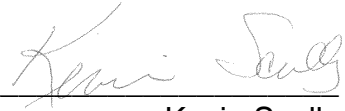
The Claimant argued that his 401(k) should not be considered an available asset because to make use of these funds would subject him to fees, penalties, and taxes.

Despite the fact that an early withdrawal from a 401(k) may create an unfortunate and disadvantageous scenario for the Claimant financially, the Department was merely applying the requirements of the State Emergency Relief (SER) program as directed by its policies and state law. Therefore, this Administrative Law Judge does not have the authority to grant an exception to these policies and has no choice but to uphold the Department's denial of his State Emergency Relief (SER) application.

DECISION AND ORDER

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 acted in accordance with Department policy when it denied the Claimant's State Emergency Relief (SER) application.

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



Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: March 20, 2014

Date Mailed: March 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

KS/hj

cc:

