

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

IN THE MATTER OF:

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Reg. No.: 2014-35093
Issue No(s): 5001
Case No.: ██████████
Hearing Date: May 28, 2014
County: Wayne (49)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 May 28, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Manager; and ██████████ Eligibility Specialist.

ISSUES

Did the Department properly process Claimant's State Emergency Relief (SER) assistance for water/sewage, electricity, and heat?

Did the Department properly implement and certify a previous Decision and Order (D&O) regarding an administrative hearing held on April 14, 2014?

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 February 14, 2014, Claimant applied for SER assistance with water/sewage, electricity, and heat. See Exhibit 1, p. 4.
2. On February 20, 2014, the Department sent Claimant an SER Decision Notice, which denied Claimant's SER request. See Exhibit 1, p. 7.
3. On February 26, 2014, Claimant filed a previous hearing request, protesting the denial of her SER application. See Exhibit 1, p. 4.

4. On April 14, 2014, Claimant attended an administrative hearing to address the SER denial. See Exhibit 1, p. 4.
5. On April 17, 2014, the Administrative Law Judge (ALJ) sent a D&O in which it ordered the Department to reregister and process Claimant's February 14, 2014, application for SER (See Reg. #2014-29743). See Exhibit 1, p. 6.
6. On April 18, 2014, the Department reprocessed Claimant's SER application and sent an updated SER Decision Notice. See Exhibit 1, p. 9.
7. On April 18, 2014, the SER Decision Notice notified Claimant that she had an asset copayment totaling \$523.57 and that it would not pay her service request for water and heat; however, that it would pay a total of \$7.02 towards the electricity service, once Claimant pays her \$103.81 obligation towards the electricity. Exhibit 1, p. 9.
8. On April 24, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 2-3.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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 Mich Admin Code, R 400.7001 through R 400.7049.

Preliminary matter

On February 14, 2014, Claimant applied for SER assistance with water/sewage, electricity, and heat. See Exhibit 1, p. 4. On February 20, 2014, the Department sent Claimant an SER Decision Notice, which denied Claimant's SER request. See Exhibit 1, p. 7. On February 26, 2014, Claimant filed a previous hearing request, protesting the denial of her SER application. See Exhibit 1, p. 4. On April 14, 2014, Claimant attended an administrative hearing to address the SER denial. See Exhibit 1, p. 4. On April 17, 2014, the ALJ sent a D&O in which it ordered the Department to reregister and process Claimant's February 14, 2014, application for SER (See Reg. #2014-29743). See Exhibit 1, p. 6.

At the hearing, Claimant disputed that the Department failed to act upon the previous hearing decision. A review of Claimant's hearing request and testimony appeared to indicate that she interpreted the D&O to mean that her SER assistance request will be paid and/or approved. See Exhibit 1, pp. 2-3 and 10-11. However, the D&O only stated

that the Department reregister and process the application (See Reg. #2014-29743). See Exhibit 1, p. 6. On April 18, 2014, the Department reprocessed Claimant's SER application and sent an updated SER Decision Notice. See Exhibit 1, p. 9.

Based on the foregoing information and evidence, the Department properly implemented and certified the D&O sent on April 17, 2014 from the previous administrative hearing (Reg. #2014-29743). See BAM 600 (March 2014), pp. 42-43. The evidence presented that the Department was only to reregister and process the application and did not state that her SER requests were approved/paid. The Department properly complied with the D&O when it reprocessed Claimant's SER application and sent an updated SER Decision Notice. See Exhibit 1, p. 9. Nonetheless, this hearing decision will proceed to address the subsequent SER decision.

SER application

Low-income households who meet all State Emergency Relief (SER) eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (October 2013), p. 1. Before authorizing the department's portion of the cost of services, the Department verifies that the income copayment, asset copayment, shortfall, and/or contribution have been paid by the client or will be paid by another agency. ERM 301, p. 10.

SER also helps to restore or prevent shut off of a utility service specified in ERM 302 when service is necessary to prevent serious harm to SER group members. ERM 302 (October 2013), p. 1. The covered utility services include payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. ERM 302, p. 1. The payment must restore or continue service for at least 30 days at the current residence. ERM 302, p. 1. However, payments for current charges are not allowed. ERM 302, p. 1. Before authorizing the department's portion of the cost of services, the Department verifies that the income and asset copayment, shortfall, and contribution have been paid by the client or will be paid by another agency. ERM 302, p. 3.

On April 18, 2014, the Department sent Claimant an SER Decision Notice, which notified the Claimant that she had an asset copayment totaling \$523.57. See Exhibit 1, p. 9. Based on the asset copayment, the SER Decision notified the Claimant that it would not pay her water/sewage and heat request and she is obligated to pay those amounts (\$189.45 for water/sewage and \$230.31 for heat). See Exhibit 1, p. 9. Moreover, the SER Decision stated that it would pay a total of \$7.02 towards the electricity service, once Claimant pays her \$103.81 obligation towards the electricity. Exhibit 1, p. 9. On April 24, 2014, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, pp. 2-3.

SER group members must use their available income and cash assets that will help resolve the emergency. ERM 208 (October 2013), p. 1. In most cases cash assets in excess of \$50 result in an asset copayment. ERM 208, p. 1. An asset copay cannot be

reduced or waived. ERM 208, p. 1. The income and asset copayments combined together determine the SER group's total copayment. ERM 208, p. 2. The total copayment is the amount the SER group must pay toward their emergency. ERM 208, p. 2. Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, p. 2.

At the hearing, the Department presented a co-payment calculation, which indicated Claimant's asset co-payment was \$523.57. See Exhibit 1, p. 19. The calculation was based upon Claimant's three submitted deposit account balance summaries dated February 17, 2014. See Exhibit 1, pp. 13-15. It appeared Claimant submitted the three balance sheets with the original application. The deposit account balance summaries are as follows: (i) checking account ending -9404 with a current balance of \$410; (ii) savings account ending -4644 with a current balance of \$31.16; and (iii) checking account ending -2578 with a current balance of \$132.41. See Exhibit 1, pp. 13-15. The Department totaled all three accounts, which resulted in a total asset amount of \$573.57. The Department then subtracted \$50 because it only considers assets in excess of \$50, which results in an asset co-payment amount of \$523.57. See ERM 208, p. 1 and ERM 205 (March 2013), p. 1.

Based upon the above information, the Department would only contribute \$7.02 towards Claimant's electricity payment. A review of the SER Decision Notice indicated that Claimant had a total SER request for \$530.59. See Exhibit 1, p. 9. The total copayment is the amount the SER group must pay toward their emergency. ERM 208, p. 2. Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, p. 2. Thus, the Department deducted Claimant's asset copayment amount of \$523.57 from the \$530.59 cost of resolving the emergency, which resulted in the \$7.02 Department obligation amount. See Exhibit 1, p. 9.

Claimant did not dispute that she submitted the above three balances at time of application. Moreover, Claimant did not dispute her balances with accounts ending -4644 and -2578. However, Claimant disputed the amount her account ending in -9404. See Exhibit 1, p. 13. Claimant testified that she leases one vehicle and her monthly payments are deducted from the account in the amount of \$276. Claimant testified that the balance of \$410 did not exclude the car payment amount. Furthermore, Claimant testified that she provided with her application verification of the car payment and also informed the Department at the prior hearing of such a payment. Ultimately, Claimant inferred that the car payment amount of \$260 should be an excluded asset. The Department argued that it based its calculation of Claimant's submitted balances.

The Department verifies and counts all non-excluded assets of SER group members for all SER services with every application. ERM 205, p. 1. Count only available assets when determining SER eligibility. ERM 205, p. 1.

Cash assets include amounts on deposit in banks, savings and loan associations, credit unions and other financial institutions. ERM 205, p. 2. Non-cash assets include vehicles. ERM 205, p. 2. The Department counts all assets except a motor vehicle

(one motor vehicle used as the SER group's primary means of transportation). See ERM 205, pp. 2-3.

The Department completes an SER budget in its system for each request/application. ERM 103 (October 2013), p. 2. The Department calculates payment maximums, required payments, income and asset copayment, client contributions, etc. based on the information entered from the SER application and determines eligibility or ineligibility for SER. ERM 103, p. 2.

Based on the foregoing information and evidence, the Department acted in accordance with Department policy when it properly processed Claimant's SER application for water/sewage, heat, and electricity effective April 18, 2014.

The evidence presented that the Department properly calculated Claimant's asset copayment amount based on the submitted deposit account balance summaries she provided. See Exhibit 1, pp. 13-15. The Department properly used the current balance amount from all three accounts that Claimant provided to be considered as a cash asset. See ERM 205, p. 2. Then, the Department properly excluded the first \$50 of an SER group's cash assets, which resulted in an asset co-payment amount of \$523.57. See ERM 205, p. 1. Claimant, though, argued that the car payment amount of \$260 should be an excluded asset. Policy does state that non-cash assets include vehicles. ERM 205, p. 2. The Department counts all assets except a motor vehicle (one motor vehicle used as the SER group's primary means of transportation). See ERM 205, pp. 2-3. However, a review of Claimant's submitted bank balances did not display such a payment, even though Claimant testified she notified the Department as such.

Nevertheless, the Department calculates payment maximums, required payments, income and asset copayment, client contributions, etc. based on the information entered from the SER application and determines eligibility or ineligibility for SER. ERM 103, p. 2. The Department properly calculated the asset co-payment based on the information the Claimant had provided (the deposit account balance summaries). See ERM 103, p. 2 and Exhibit 1, pp. 13-15. As stated above, the Department's only obligation is \$7.02 towards the electricity service, once Claimant pays her \$103.81 obligation towards the electricity. Exhibit 1, p. 9 and see ERM 301, p. 10. As such, the Department properly verified and counted all of Claimant's non-excluded assets based on the information she had provided at time of application. See ERM 103, p. 2 and ERM 205, pp. 1-8.

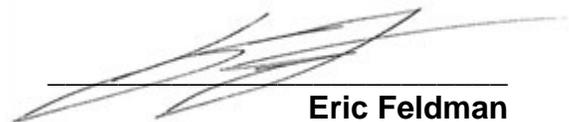
Therefore, the Department properly found on April 18, 2014 (SER Decision Notice), that the Claimant is obligated to pay her water or sewage and heat amount due to the asset co-payment amount being deducted from the cost of resolving the emergency. See Exhibit 1, p. 9. Moreover, the Department properly determined that its only obligation is \$7.02 towards the electricity service, once Claimant pays her \$103.81 obligation towards the electricity. See Exhibit 1, p. 9.

It should also be noted that based on the Department testimony, Claimant is not categorically eligible for the services requested. See ERM 301, p. 5.

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 (i) properly implemented and certified the D&O sent on April 17, 2014 from the previous administrative hearing (Reg. #2014-29743); and (ii) properly determined and/or processed Claimant's SER assistance request for water or sewage, heat, and electricity on April 18, 2014.

Accordingly, the Department's SER decision is AFFIRMED.



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

Date Signed: June 2, 2014

Date Mailed: June 2, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

2014-35093/EJF

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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]