

**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.: 14-004868
Issue No.: 5008
Case No.: ██████████
Hearing Date: November 12, 2014
County: WAYNE-DISTRICT 55
(HAMTRAMCK)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 November 12, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████ ██████; and Claimant's Authorized Hearing Representative (AHR)/spouse, ██████ ██████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Hearings Facilitator.

ISSUE

Did the Department properly process Claimant's request for State Emergency Relief (SER) assistance with heat?

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 May 15, 2014, Claimant applied for SER assistance with heat. See Exhibit 1, pp. 7-18.
2. Claimant's energy service account statement indicated a total past due amount of \$790.97 and it was notated that she is categorically eligible. See Exhibit 1, p. 3.
3. On May 23, 2014, the Department sent Claimant an SER Decision Notice, which required that Claimant pay \$340.97 for the heat service and then once Claimant pays her total payment; the Department would pay \$450 towards the heat service. Exhibit 1, pp. 5-6. The SER Decision Notice stated that if verification is not returned by June 13, 2014, the DHS payment will not be made. See Exhibit 1, p. 5.

4. On June 5, 2014, Claimant filed a hearing request, protesting that the Department miscalculated her total payment requirement. See Exhibit 1, p. 2.
5. On September 8, 2014, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled her for a hearing on September 18, 2014.
6. On September 19, 2014, the Administrative Law Judge/Manager sent Claimant an Order of Dismissal.
7. On or around September 19, 2014, Claimant requested an order to vacate the dismissal.
8. On October 21, 2014, the Administrative Law Judge (ALJ) sent Claimant an Order Vacating the Dismissal and Order to Schedule Matter for Hearing.
9. On October 28, 2014, MAHS sent Claimant a Notice of Hearing, which rescheduled her for a hearing on November 12, 2014.

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).

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. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP). ERM 301, p. 1. When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301, p. 1. The amount of the payment is the minimum necessary to prevent shutoff or restore service, not to exceed the fiscal year cap. ERM 301, p. 1. The fiscal year cap for heat is \$450. ERM 301, p. 10.

In this case, on May 15, 2014, Claimant applied for SER assistance with heat. See Exhibit 1, pp. 7-18. Claimant's energy service account statement indicated a total past due amount of \$790.97 and it was noted that she is categorically eligible. See Exhibit 1, p. 3.

On May 23, 2014, the Department sent Claimant an SER Decision Notice, which required that Claimant pay \$340.97 for the heat service and then once Claimant pays her total payment; the Department would pay \$450 towards the heat service. Exhibit 1, pp. 5-6. Claimant's total payment consisted of a \$63.78 income/asset co-payment and

\$277.19 contributions from the Claimant and/or other sources. See Exhibit 1, p. 5. The SER Decision Notice stated that if verification is not returned by June 13, 2014, the DHS payment will not be made. See Exhibit 1, p. 5.

As to \$63.78 income/asset co-payment, the Department's testimony appeared to indicate that this consisted of an asset co-payment. There is no income co-payment for energy-related services. ERM 301, p. 3. However, energy services do include asset co-payment. In most cases cash assets in excess of \$50 result in an asset co-payment. ERM 208 (October 2013), p. 1. An asset copay cannot be reduced or waived. ERM 208, p. 1. The Department testified that Claimant's case file contained a bank statement showing an ending account balance of \$113.78. Thus, it is reasonable to conclude that the Department calculated a \$63.78 asset co-payment (\$113.78 minus the first \$50 asset co-payment exclusion). See ERM 208, p. 1.

Claimant, though, argued that her account balance was below \$100 at the time of application. Moreover, a review of Claimant's application shows that she indicated that she did not know her account balance. See Exhibit 1, p. 13. Finally, the Department failed to present evidence if it requested an SER Verification Checklist in order to verify her bank account balance. See ERM 103 (October 2013), p. 6.

As to the \$277.19 contribution from Claimant and/or other sources, it appears that this amount was based on the remainder Claimant must contribute toward the cost of resolving the emergency. Regarding client contribution policy, 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, p. 3. Other persons or organizations can also contribute funds on behalf of the SER group. ERM 208, p. 3. Verification that the contribution has been paid must be received before any SER payment can be made ERM 208, p. 3. It should be noted that the Department did not present an asset and/or a contribution budget.

Claimant and her AHR argued that she in fact paid her total co-payment amount. First, Claimant referenced her energy payment history, which indicated the following payments: payment in the amount of \$1 on June 9, 2014; payment in the amount of \$318.49 on June 2, 2014; and payment in the amount of \$22.24 on March 13, 2014. See Exhibit 1, p. 4. Claimant inferred that if all these amounts are added together, they exceed the \$340.97 total payment requirement in the SER decision. However, the Department argued that the \$318.49 payment was a previous SER payment done by the Department and should not be applied towards Claimant's required amount.

Second, Claimant testified that she had a third party contribute to her SER assistance. However, Claimant failed to provide evidence that a third party (i.e., other persons or organizations) contributed funds on behalf of the Claimant.

Third, Claimant and the AHR argued that because she is categorically eligible, the total payment is not applicable and the Department should process the \$450 payment.

Based on the foregoing information and evidence, the Department acted in accordance with Department policy when it (i) properly processed Claimant's request for SER assistance with heat (SER Decision Notice dated May 23, 2014); (ii) properly calculated Claimant's total payment obligation of \$340.97; and (iii) Claimant failed to provide proof that verification of payments was received within the 30-day eligibility period (by June 13, 2014).

First, Claimant and the AHR's arguments are improper that the Department should process the \$450 payment because she is categorically eligible. Categorical eligibility is referenced in ERM 301 and lists several factors in order to meet this requirement. See ERM 301, p. 5. It is not disputed that Claimant is categorically eligible. However, a review of policy indicates that categorical eligibility is applicable to the waiver of the energy requirement payments (also referred to as the "shortfall" amount). To be eligible for energy service assistance, an SER group must make required payments toward their energy service bills unless the case is categorically eligible. See ERM 301, p. 5. The energy required payment period is the six-month period prior to the month the SER group applies for assistance, regardless of previous approvals. ERM 301, p. 5. Categorical eligibility means that the shortfall is not applicable to the Claimant. However, categorical eligibility does not mean that she is also not responsible for her asset co-payment and contribution amounts. Claimant is still responsible for these payments even if she is categorically eligible.

Second, the Department properly calculated Claimant's total payment amount to be \$340.97. Even though Claimant disputed the \$63.78 asset co-payment calculation, Claimant is still responsible towards the cost of this amount. As stated previously, 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, p. 3. The evidence presented that the total past due amount is \$790.97 and the fiscal year cap for heat is \$450. See Exhibit 1, p. 3 and ERM 301, p. 10. The result is that Claimant must contribute \$340.97 (\$790.97 past due amount minus \$450 fiscal year cap) towards the cost of the resolving the emergency because the SER does not cover the full cost of the service. It is harmless error if the Department did not properly calculate the asset co-payment. Even if Claimant did not have any asset co-payment, her contribution amount would therefore increase from \$277.19 to \$340.97 because that is the amount she must contribute.

Third, Claimant failed to provide proof that verification of payments was received within the 30-day eligibility period (by June 13, 2014). Claimant argued that she had third party assistance contribute to her required total payment amount; however, she failed to provide any evidence of such assistance.


Moreover, the Department credibly testified that the \$318.49 payment was based on a previous SER payment. Regarding client contribution policy, other persons or organizations can also contribute funds on behalf of the SER group. ERM 208, p. 3. This policy does not include receiving contribution assistance from a previous SER payment. As such, the previous \$318.49 cannot be applied towards the client

contribution amount. Also, the March 2014 payment in the amount of \$22.24 cannot be applied towards the contribution amount. See Exhibit 1, p. 4. If the SER group meets all eligibility criteria but has an income or asset co-payment, shortfall, and/or contribution, the Department does not issue payment until the client provides proof that their payment has been made. ERM 103, p. 4. Verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made and the client must reapply. ERM 103, p. 4. Claimant's March 2014 payments fall outside the 30-day eligibility period of May 15, 2014 to June 13, 2014. See Exhibit 1, p. 5. Nevertheless, the evidence presented that Claimant failed to provide proof that verification of payments was received within the 30-day eligibility period (by June 13, 2014).

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 processed Claimant's request for SER assistance with heat (SER Decision Notice dated May 23, 2014); (ii) properly calculated Claimant's total payment obligation of \$340.97; and (iii) Claimant failed to provide proof that verification of payments was received within the 30-day eligibility period (by June 13, 2014).

Accordingly, the Department's SER decision is AFFIRMED.


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

Date Signed: **11/14/2014**

Date Mailed: **11/14/2014**

EJF / cl

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, 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

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

CC:

[REDACTED]