

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

IN THE MATTER OF:



Reg. No.: 14-019097
Issue No.: 5008
Case No.: [REDACTED]
Hearing Date: March 12, 2015
County: WAYNE-DISTRICT 15
(GREYDALE)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 March 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

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

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 November 14, 2014, Claimant applied for SER assistance with shelter emergency.
2. On December 11, 2014, the Department sent Claimant an SER Decision Notice. The SER Decision Notice indicated that the Department would pay \$195 if the Claimant met her obligation to pay \$2,630 for the periods of November 14, 2014 and December 13, 2014.
3. The Claimant did not make the co-payment by the due date of December 13, 2014. The Claimant was unable to make her co-payment by the due date.
4. On December 10, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's 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).

Additionally, in this case the Claimant was approved for SER rent assistance due to an eviction Judgment presented with the application. The SER application was filed by the Claimant on November 14, 2014. Unfortunately the reason the Claimant did not meet her co-pay obligation of \$2630 and rent obligations prior to the SER application were varied including a change in rental management company and personal problems with her family. Unfortunately these problems do not serve as a basis for finding the Department's denial of making its share of the payment. A budget as to how the co-pay amount was determined was not presented; however, the evidence presented at the hearing indicated that at the time of the application, the Claimant had not paid her rent for several months and thus the Department had to consider these months and determine whether the Claimant had failed to use available resources to meet her rent obligation. In this case the Claimant's rent was \$825. It is not clear what months the Department determined that Claimant had not paid rent. At the hearing the Claimant did not provide rent receipts nor did the Department indicate what months rent was determined as unpaid in the budget at the hearing.

Applicable policy provides:

REQUIRED PAYMENTS

Verify the group shelter payments for the past six months and enter the obligation amount and verification source on the SER Required Payments screen. If required payments have not been made, Bridges will determine whether the SER group had good cause for non-payment of their shelter obligation during the last six months, regardless of the reason they are in need; see ERM 204. ERM 303 (12/1/13) pp. 4

Client Caused Emergencies. ERM 204 provides:

SER does not assist a group who failed to use their available money to prevent a shelter, energy or utility emergency. A client-caused emergency is when an SER group fails to pay required payments for the six-month period prior to the month of application.

Include all members who were in the home and not excluded for each month. Include a deceased person if they were alive during the required payment period; see ERM 201, Group Composition, for excluded persons. ERM 204 (8/1/14) pp.1

Evaluate the payment history for the preceding six-month period to determine the required payment criteria. Required payments are actual shelter costs or required energy and/or utility payments as outlined in ERM 301 & ERM 302. Required payments are determined based on the group members in the home during the required payment period. Required payments include the deceased if alive during the required payment period.

Good cause may exist as a basis for an applicant's failure to prevent an emergency.

If good cause is found it is only granted if the applicant's monthly income exceeds the good cause amount in Table. In this case the Claimant's group size was 3 and thus her income to meet the good cause qualification had to be less than \$255. Claimant receives income for herself and her children in the amount of \$2100 and is disabled. The Claimant owed a total of \$2825 as a result of the eviction judgment agreement. While overall it appears that the Department correctly determined that the co-pay was not met by the Claimant by the due date, and it does appear that Claimant did not make some rent payments in the last six months prior to the judgment, it cannot be determined how the Department determined the co-pay amount.

It appears that the Department determined that the Claimant had not paid rent for the months August through November 2014 and the Claimant did not present receipts that these months were paid. The Department did not present a budget to demonstrate how it determined the Claimant's share of the rent assistance co-pay amount of \$2630.

The Landlord Tenant Judgment entered on December 2, 2014 indicated that the Claimant had to pay a total of \$2825 by various due dates to the landlord to avoid eviction by due dates set out in the judgment or eviction would ensue. Given the amount sought by the Landlord, the Claimant owed at least 3 months back rent as her rent was \$825 per month. The Claimant also seemed confused about her co-pay obligation as she focused on the judgment of evictions saying that those amounts had been paid.

Ultimately, it cannot be determined whether the Department correctly determined the Claimant's co-pay amount and thus the Department did not meet its burden of proof.

The Claimant must attempt to obtain receipts showing what she paid to her landlord for the months in question as part of her verification of rental payments she made. This will assist the Department in its redetermination of the co-pay amount or written evidence as

to the amount Claimant paid to the Court pursuant to the Judgment of Eviction so that the Department can determine what was paid by the Claimant.

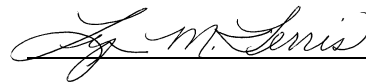
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy as it did not produce a budget showing that the Claimant's co-pay amount was correctly determined under the facts when it issued its SER Decision Notice.

DECISION AND ORDER

Accordingly, the Department's SER decision is **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. The Department shall reregister the November 14, 2014 SER application and re-determine the co-pay amount that the Client must pay and a new co-pay due date.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **4/7/2015**

Date Mailed: **4/7/2015**

LMF / 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 48909-8139

CC:

[REDACTED]