

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-19066
Issue No(s): 5001
Case No.: [REDACTED]
Hearing Date: March 5, 2014
County: Wayne (41)

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 March 5, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Administrative Hearings Coordinator, and [REDACTED], Eligibility Specialist.

ISSUE

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

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 December 2, 2013, Claimant applied for SER assistance with energy services. See Exhibit 1.
2. On December 11, 2013, the Department sent Claimant the SER Decision Notice. See Exhibit 1.
3. On December 13, 2013, Claimant filed a hearing request, protesting the SER decision. See Exhibit 1.

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. 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.

If the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied unless good cause is granted. ERM 103 (October 2013), p. 1.

In this case, on December 2, 2013, Claimant applied for SER assistance with non-heat electricity in the amount of \$108.16. See Exhibit 1. In the application, Claimant indicated that he had a savings account with a balance of \$100 and a checking account with a balance of \$75. See Exhibit 1. Also, Claimant indicated he had monthly alimony income of \$423 and self-employment income in the amount of \$250. See Exhibit 1. Claimant testified that when he received the alimony money, it goes into his checking and/or savings account. It should be noted that the application copy provided was partially difficult to review; however, during the hearing, Claimant confirmed the above asset and income amounts.

On December 11, 2013, the Department sent Claimant the SER Decision Notice, which denied his non-heat electricity request in the amount of \$108.16 due to his income/asset copayment is equal to or great than the amount needed to resolve the emergency. See Exhibit 1.

At the hearing, the Department presented a SER asset calculation, which calculated his total liquid asset amount to be \$396.24. See Exhibit 1. The Department based this amount on prior liquid asset summaries the Department had regarding the Claimant. See Exhibit 1. The amounts the Department had in his file were as follows: Claimant's savings bond (\$123.02) and a checking account (\$273.22). See Exhibit 1. The Department then excluded the \$50 cash asset limit, which resulted in an excess cash asset co-payment amount of \$346.24. See Exhibit 1 and ERM 205, p. 1. Therefore, the Department inferred that this amount exceeded the \$108.16 in non-heat electricity request, thus, his SER request was denied due to his income/asset copayment is equal to or great than the amount needed to resolve the emergency. See Exhibit 1.

However, a review of Claimant's application indicated total assets reported in the amount of \$175 (\$100 for savings and \$75 for checking). See Exhibit 1. This amount is

different than the amounts the Department budgeted for the asset co-payment. The Department testified that it did not send Claimant a SER Verification Checklist to verify this asset discrepancy. The Department, though, testified that it spoke to the Claimant on December 2, 2013. The Department testified that Claimant stated he did not have any assets and could not provide verification. Claimant disagreed with that statement and agreed with that he had a savings account with a balance of \$100 and a checking account with a balance of \$75 at the time of application. Moreover, Claimant testified that his alimony income goes into his checking and savings account.

The Department verifies and counts all non-excluded assets of SER group members for all SER services with every application. ERM 205 (March 2013), p. 1. The Department counts only available assets when determining SER eligibility. ERM 205, p. 1.

The SER group must use countable cash assets to assist in resolving their emergency. ERM 205, p. 1. The protected cash asset limit is \$50. ERM 205, p. 1. Exclude the first \$50 of an SER group's cash assets. ERM 205, p. 1. The amount in excess of the protected cash asset limit is deducted from the cost of resolving the emergency and is called the asset copayment. ERM 205, p. 1.

The Department excludes the following asset: the budgetable portion of income deposited into a checking or savings account. ERM 205, p. 3. Do not count the same funds as both income and an asset in the same month. ERM 205, p. 3.

Based on the foregoing information and evidence, the Department improperly denied Claimant's SER application for non-heat electricity in the amount of \$108.16 on December 11, 2013.

First, it is evident that there was a discrepancy as to Claimant's reported assets. The Department's previous records indicated that Claimant had a savings bond (\$123.02) and checking account (\$273.22), which resulted in a total amount of \$396.24. See Exhibit 1. However, when Claimant submitted his application, he reported total assets in the amount of \$175 (\$100 for savings and \$75 for checking). See Exhibit 1. This is a discrepancy as to assets. The Department testified that it did not request a SER Verification Checklist for the assets. Moreover, the Department calculated Claimant's asset co-payment using the previous records it had rather than the updated asset information Claimant provided in his application. Therefore, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it improperly calculated Claimant's asset co-payment due to the discrepancy.

Second, Claimant provided credible testimony that his alimony income goes into his checking and savings account. ERM 205 clearly states that the budgetable portion of income deposited into a checking or savings account is in excluded asset. ERM 205, p. 3. Do not count the same funds as both income and an asset in the same month. ERM 205, p. 3. Thus, the Department should have excluded the budgetable portion of his income deposited into his checking and/or savings account. As stated previously, the Department did not request a SER Verification Checklist. It is unclear of what portion of

Claimant's \$100 checking account or the \$75 savings account balance included the portion of his income. The Department did not request verifications to determine which of Claimant's budgetable income is an excluded asset. See ERM 205, p. 6. Thus, again, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it improperly calculated Claimant's asset co-payment. Therefore, the Department will reprocess Claimant's SER application dated December 2, 2013 for non-heat electricity assistance in the amount of \$108.16. ERM 205, p. 3.

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 did not act in accordance with Department policy when it improperly denied Claimant's SER application for non-heat electricity in the amount of \$108.16 on December 11, 2013.

Accordingly, the Department's SER decision is AFFIRMED 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. Reregister the SER application dated December 2, 2013;
2. Begin reprocessing the application/recalculating the SER budget from the date of application and as the circumstances existed at the time of application, in accordance with Department policy;
3. Issue supplements to Claimant for any SER benefits he was eligible to receive but did not from the date of application; and
4. Notify Claimant in writing of its SER decision in accordance with Department policy.


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

Date Signed: March 24, 2014

Date Mailed: March 24, 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

EJF/tlf

cc:

