

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

IN THE MATTER OF:



Reg. No.: 201419435
Issue No.: 5001
Case No.: [REDACTED]
Hearing Date: March 10, 2014
County: Wayne (43)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 10, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly deny Claimant's application for State Emergency Relief (SER) assistance with furnace repair?

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 11, 2013, Claimant applied for SER assistance with furnace repair.
2. On December 13, 2013, the Department sent Claimant a SER Decision Notice denying her application because her countable income exceeded the maximum allowed under the program.
3. On December 18, 2013, Claimant filed a request for hearing disputing the Department's SER decision.

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).

Additionally, SER assistance is available for home repairs to correct unsafe conditions and restore essential services. ERM 304 (October 2013), p. 1. This includes energy-related repairs for repair or replacement of a non-functioning furnace. ERM 304, p. 2.

For a group to be eligible for energy services, the combined monthly net income that is received or expected to be received by all SER group members in the 30-day countable income period beginning the date the application is submitted cannot exceed the standard for SER energy/LIHEAP services for the number of group members. ERM 208 (October 2013), p. 1. If the SER group's income exceeds the limit, the request must be denied. ERM 208, p. 1. For a SER group with two members (in this case, Claimant and her adult son), the applicable SER income limit is \$1,938. The Department alleged that Claimant's monthly countable SER income was \$2,699. 38.

In this case, the Department testified that Claimant's countable income was determined by adding together her gross monthly Retirement, Survivors and Disability Insurance (RSDI) income of \$1382.90; her gross monthly retirement pension of \$517.74; and her son's gross monthly income of \$1396.80 and subtracting the following deductions: \$349.20 for mandatory withholding taxes from the son's earned income and \$134.98 for the son's child support expenses.

At the hearing, Claimant acknowledged that she received monthly RSDI income of \$1382.90 and did not dispute the Department's use of gross monthly retirement pension of \$517.74. She testified that her son earned \$8.70 hourly for 40 hours of weekly employment, which results in \$1392 in gross monthly earned income.

The Department testified that no deduction was provided for Claimant's monthly Part B Medicare premium. However, in calculating countable SER income, only the *net* amount of RSDI benefits is considered. ERM 206 (October 2013), p. 1. Therefore, to the extent the Department did not reduce Claimant's group's income by her \$104.90 premium; it did not act in accordance with Department policy.

Further, net *earned* income is determined by reducing gross earned income by (i) mandatory withholding taxes (25% of the gross), (ii) deductions required by the employer as a condition of employment, (iii) court-ordered child support paid, including arrears, (iv) payments for health insurance, and (v) certain dependent care expenses. ERM 206, pp. 4-5. The Department properly reduced Claimant's son's earned income by 25% for mandatory withholding taxes. While the Department testified that it further reduced Claimant's group's income by her son's child support expenses, there was a discrepancy between the Department's and Claimant's testimony concerning the amount of these expenses, and the Department did not present any evidence

supporting its calculation despite being given the opportunity to do so. Further, Claimant testified at the hearing that her son also paid for health insurance for his son and himself and day care for the child, and there was no evidence that any such expenses were deducted from the son's earned income. Under these facts, the Department failed to satisfy its burden of showing that it properly applied the deductions for earned income in determining Claimant's SER group's countable income.

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 denied Claimant's SER application based on income ineligibility.

DECISION AND ORDER

Accordingly, the Department's 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. Reregister and reprocess Claimant's December 11, 2013 SER application;
2. Issue supplements to Claimant's providers for SER benefits Claimant is eligible to receive, if any; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 28, 2014

Date Mailed: March 28, 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

ACE/tlf

cc:

