

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-32533
Issue No(s): 5001
Case No.: ██████████
Hearing Date: April 23, 2014
County: Wayne (19)

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 April 23, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's spouse, ██████████ ██████████ ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Assistant Payment Worker; and ██████████, Family Independence Manager.

ISSUE

Did the Department properly process Claimant's request for State Emergency Relief (SER) assistance with non-heat electricity and heat 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 February 28, 2014, Claimant applied for SER assistance with non-heat electricity and heat.
2. On March 11, 2014, the Department sent Claimant the SER Decision Notice, which denied Claimant's SER assistance request for non-heat electricity (\$2,820.53) and heat (\$2,721.96) due to the countable income being higher than the maximum amount allowed for the programs. See Exhibit 1.
3. On March 18, 2014, 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).

In this case, on February 28, 2014, Claimant applied for SER assistance with non-heat electricity and heat. On March 11, 2014, the Department sent Claimant the SER Decision Notice, which denied Claimant's SER assistance request for non-heat electricity (\$2,820.53) and heat (\$2,721.96) due to the countable income being higher than the maximum amount allowed for the programs. See Exhibit 1.

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. 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.

There are no income copayments for SER energy services. ERM 208 (October 2013), p. 1. With respect to income, clients are either eligible or they are not. ERM 208, p. 1. For a group to be eligible for energy services, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period, cannot exceed the standard for SER energy/LIHEAP services for the number of group members. ERM 208, pp. 1 and 6. If the income exceeds the limit, the request must be denied. ERM 208, p. 1. Exhibit II, SER Income Need Standards for Energy Services states that a family size of three cannot exceed \$2,441. ERM 208, p. 6.

The Department establishes the SER countable income period and determines the SER group's net countable income based on the application date and entry of income information in the data collection screens. ERM 206 (October 2013), p. 1. The SER budget computation period is 30 days. ERM 206, p. 1. This is referred to as the countable income period. ERM 206, p. 1. The first day of the countable income period is the date the local office receives a signed application for SER. ERM 206, p. 1.

Unearned income includes Social Security benefits (RSDI/SSI) using the net amount received and pensions / retirement benefits. ERM 206, pp. 1-2.

At the hearing, the Department presented a SER-Copayment Details budget and the group members unearned income budget – summaries to show how the group's income exceeded the standard SER energy limit. See Exhibits 1 and 2. At the time of application, it was not disputed that Claimant's group size was three.

Moreover, the SER-Copayment Details budget indicated that the total net unearned income amount was \$3,739. See Exhibit 1. The unearned income amount consisted of the following, which neither the Claimant nor his spouse dispute: \$1,090 for Claimant's son's RSDI income; \$1,030 for Claimant's spouse's RSDI income; \$1,514 for Claimant's RSDI income; and \$105 for Claimant's pension/retirement income. See Exhibit 1. When the following amounts are added together, this results in a total unearned income amount of \$3,739. See Exhibit 1. Claimant did not dispute this amount nor indicate any applicable deductions from the Social Security benefits (e.g., health insurance premiums). Therefore, the SER group's total net countable income was \$3,739.

Based on the foregoing information and evidence, the Department properly denied Claimant's application for non-heat electricity and heat. First, Claimant agreed that the group size was three at the time of application. Second, Claimant and his spouse agreed with the calculation of the group's monthly net income (\$3,739). Exhibit II, SER Income Need Standards for Energy Services states that a family size of three cannot exceed \$2,441. ERM 208, p. 6. Because the SER group's monthly net income of \$3,739 exceeded the \$2,441 standard for SER energy/LIHEAP services for a group size three, the Department acted in accordance with Department policy when it properly denied the SER application for non-heat electricity and heat. ERM 206, pp. 1-2; ERM 208, pp. 1-6; and ERM 301, p. 1.

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 properly denied Claimant's SER assistance request for non-heat electricity and heat effective March 11, 2014.

Accordingly, the Department's SER decision is AFFIRMED REVERSED.



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

Date Signed: May 1, 2014

Date Mailed: May 1, 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/cl

cc:

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