

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-016719
Issue No.: SER
Case No.: [REDACTED]
Hearing Date: February 11, 2015
County: KENT-DISTRICT 1

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 February 11, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED] Specialist.

ISSUE

Did the Department properly determine Claimant's eligibility for State Emergency Relief (SER)?

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 for her water.
2. The submitted water bill showed a balance of \$ [REDACTED]
3. Claimant's grandson lives with Claimant.
4. Claimant's grandson receives Social Security Administration (SSA) issued Supplemental Security Income (SSI) and Claimant receives Retirement, Survivors, and Disability Insurance (RSDI) benefits.
5. There is a representative payee for Claimant's grandson's SSI benefit who does not live in the same home as Claimant and her grandson.

6. On November 14, 2014, a SER Decision Notice was issued to Claimant stating SER was denied because the utility service bill includes non-residential and/or business usage and the utility company cannot identify Claimant's share.
7. On November 20, 2014, Claimant filed a request for hearing contesting the Department's action.
8. The Department acknowledged the denial reason on the November 14, 2014, SER Decision Notice was incorrect and re-determined eligibility.
9. The Department determined Claimant's income/asset co-payment would be \$ [REDACTED]
10. On November 25, 2014, a SER Decision Notice was issued to Claimant stating the SER was denied because Claimant's income/asset co-payment is equal to or greater than the amount needed to resolve the emergency.

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).

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 Mich Admin Code, R 400.7001 through R 400.7049.

A single SER group consists of persons who occupy the same home. Adults and dependent children who normally live together are in the same SER group. ERM 201, 3-1-2013, p. 1.

The Department is to verify and budget all nonexcluded gross income the SER group expects to receive during the countable income period. Countable income includes the net amount of Social Security benefits (RSDI/SSI) received. ERM 206, 10-1-2013, p. 1.

Net unearned income must be determined by deducting specified expenses from the gross amount of unearned income received. The specified expenses include payments for health insurance and Medicare premiums that will not be reimbursed. ERM 206, pp. 4-5.

The SER income need standard for a group size of 2 is \$ [REDACTED] ERM 206, p. 6.

In this case, the Department acknowledged the denial reason on the November 14, 2014, SER Decision Notice was incorrect and re-determined eligibility. Accordingly, the

remaining contested determination is the November 25, 2014, SER Decision Notice stating SER was denied because Claimant's income/asset co-payment is equal to or greater than the amount needed to resolve the emergency.

The Department determined the countable income was the SSA issued benefits, SSI (\$████) and RSDI (\$████). The submitted co-payment calculation shows the correct income need standard (\$████) was subtracted from the total countable income (\$████) resulting the co-payment amount of \$████.

Claimant contests the Department's determination and asserted that her grandson's SSI should not be counted. Claimant acknowledged that her grandson lives in the home with her. However, Claimant's grandson has a representative payee for his SSI benefit, who is at a different address. Accordingly, Claimant asserts that because her Grandson's SSI income does not go to anyone in her home it should not be counted. Claimant testified that each month she is only given \$████ from the representative payee for the child staying with her. Claimant explained that the representative payee pays for the child's other expenses, such as clothing.

The above cited SER policy directs that SSI income for SER group members is countable. It was uncontested that Claimant's grandson lives in the home with Claimant and receives SSI. The SER policy does allow for any exclusion of SSI income issued to a representative payee that is not in the SER group. Accordingly, Claimant's grandson's SSI income was properly included.

Claimant also testified that \$104 comes out of her RSDI income for Medicare insurance.

The SER policy does allow for an exclusion of health insurance and Medicare premium expenses. The submitted co-payment calculation does not show that the Department excluded the \$████ for Claimant's Medicare insurance. However, even if the SER is recalculated to exclude the \$████ for Claimant's Medicare insurance, Claimant would still have an SER co-payment amount in excess of \$████. Therefore, the November 14, 2014, SER application for the \$████ water bill would still be denied because the co-payment is still greater than the amount needed to resolve the emergency.

Lastly, Claimant brought a copy of a home repair bill for \$████ from October 2014 to the hearing proceedings. The Department testified that if this receipt had been received at the time the SER application was processed, the expense may have been considered. It is not clear what, if any, portion of the ERM policy would allow for the home repair expense to be considered. However, it is again noted that even if another \$125 was subtracted, the remaining co-payment is still greater than the amount needed to resolve the emergency for this SER application.

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 denied Claimant's SER application because the co-payment is greater than the amount needed to resolve the emergency.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



Colleen Lack
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/4/2015**

Date Mailed: **3/4/2015**

CL/hj

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:

