

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 15-001985
Issue No.: 5001
Case No.: ██████████
Hearing Date: March 18, 2015
County: Wayne-District 57 (Conner)

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 18, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist, and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's January 26, 2015 application for State Emergency Relief (SER) assistance?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant lives with her child.
2. Claimant is employed and paid biweekly.
3. On January 26, 2015, Claimant submitted a SER application requesting assistance with prevention of rent eviction.
4. On January 26, 2015, the Department sent Claimant a SER Decision Notice denying the SER application because her income/asset copayment was equal to or greater than the amount needed to resolve the emergency.
5. On January 30, 2015, Claimant requested a hearing disputing the Department's actions.

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.

Claimant requested SER assistance on January 26, 2015 to prevent eviction. The Department denied Claimant's application in a January 26, 2015 SER Decision Notice on the basis that the total amount of Claimant's income/asset copayment was equal to or greater than the amount needed to resolve the emergency. At the hearing, the Department explained that it denied the application because Claimant's \$855 income copayment exceeded the \$849 necessary to resolve her emergency.

A SER group seeking assistance with non-energy SER services (which includes assistance with rent arrearage payment) must pay an income copayment if the group has net income that exceeds the SER income needs standard for non-energy services applicable to the SER group size. ERM 208 (October 2014), p. 1. The amount of the income copayment is the difference between the group's total combined net monthly income and the SER income needs standard. Claimant, who has two individuals in her household, has a SER group size of two. For a group size of two, the SER income needs standard is \$500. ERM 208, p. 5. The Department contends that Claimant's gross monthly income exceeded the \$500 income needs standard by \$855.

Under SER policy, to determine net income, the Department must first determine the actual income the client expects to receive during the SER countable income period, which is the 30-day period beginning on the date the local office receives a signed application. ERM 206 (October 2013), p. 5. In this case, Claimant submitted her SER application to the Department on January 26, 2015. Therefore, the SER countable income period in Claimant's case is January 26, 2015 to February 24, 2015. ERM 206 (October 2013), p. 1.

The Department presented a SER Copayment Details budget showing the information it used to calculate Claimant's copayment. The budget shows anticipated earned income for the period from January 26, 2015 to February 24, 2015, of \$1806.68. The Department testified that this figure was based on the two paystubs Claimant provided with her application showing biweekly gross income of \$886.77 and \$859.14. However, the total income from these two paystubs is \$1745.91, which is inconsistent with the

\$1806.68 shown on the budget. Therefore, the Department has failed to establish that it properly calculated Claimant's anticipated earned income during the SER countable period.

At the hearing, Claimant also testified that she did not receive a paycheck on February 17, 2015. The Department must decrease the income copayment when a member of the SER group notifies the specialist of a shortfall in projected income within the 30-day budget period. ERM 208, p. 3. It was unclear from the evidence presented at the hearing whether Claimant notified the Department that she did not receive payment for February 17, 2015, which is one of the pay periods during the 30-day SER countable income period. However, if Claimant can verify the absence of any pay for February 17, 2015, then her income during the SER countable income period should be reduced. ERM 206, p. 7.

Once gross income is calculated, under SER policy, the Department arrives at the SER group's net income by deducting certain expenses of employment, which include mandatory withholding taxes (25% of the gross), deductions required by the employer as a condition of employment and deductions for health insurance, and certain child support expenses and certain day care expenses. ERM 206, p. 5.

In this case, Claimant confirmed that she had no child support expenses and no day care expenses during the period at issue. The budget shows that the Department applied the 25% mandatory withholding tax deduction. However, there was evidence that Claimant's employer withheld payments for vision and dental health insurance that were not taken into consideration as deductions in the SER budget. Therefore, the Department did not properly consider those health insurance deductions in calculating Claimant's net income. Although Claimant testified that she paid an additional health insurance premium based on health insurance she purchased on the federal marketplace, she testified that she paid her first premium on February 27, 2015, which is after the 30-day SER countable income period and therefore properly not considered in the applicable deductions.

In determining that Claimant's net income exceeded the amount necessary to resolve the emergency, the Department relied on the fact that Claimant had requested SER assistance totaling \$849. Claimant confirmed at the hearing that she had requested \$849 in SER assistance at application. Because the \$849 was the amount outstanding to Claimant's landlord at the time of application, the Department properly considered this amount as the amount necessary to resolve the emergency at the time of its January 26, 2015 SER Decision Notice denying the application. However, at the hearing, Claimant established that she had paid her landlord \$300 towards her rent arrearage. The Department acknowledged receiving verification of this payment on January 30, 2015. Therefore, the evidence establishes that Claimant has already made a \$300 contribution towards any income copayment she is required to make and this amount should be deducted from the cost of resolving the emergency. ERM 208, p. 2.

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 application for SER assistance.

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 January 26, 2015 SER application;
2. Issue supplement to Claimant's provider for any SER assistance she is eligible to receive but did not in accordance with Department policy; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/30/2015**

Date Mailed: **3/31/2015**

ACE / tlf

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]