

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

IN THE MATTER OF:

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Reg. No.: 15-003793
Issue No.: 5008
Case No.: ██████████
Hearing Date: April 27, 2015
County: Wayne-District 18 (Taylor)

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 27, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; ██████████, Claimant's mother; and ██████████, Claimant's stepfather. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist/Hearing Facilitator.

ISSUE

Did the Department properly approve Claimant's application for State Emergency Relief (SER) assistance for gas energy-services subject to a \$266.05 copayment?

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 resides in her home with her two children.
2. On February 20, 2015, Claimant applied for SER assistance with gas and electric bills.
3. On February 26, 2015, the Department sent Claimant a SER Decision Notice notifying her that it would pay (i) \$266 towards her electricity bill and (ii) \$65.35 toward her gas bill upon her proof of payment of a \$266.05 copayment by March 21, 2015.

4. On March 3, 2015, Claimant filed a request for hearing disputing the Department's calculation of her copayment towards her gas bill.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In its February 26, 2015, SER Decision Notice, the Department notified Claimant that it would pay \$65.35 towards Claimant's requested assistance for payment of outstanding gas bills upon her presenting proof of her payment of a \$266.05 contribution by March 21, 2015. The SER Decision Notice indicated that Claimant's \$266.05 contribution resulted from the sum of \$214.05 in unmet required payments (shortfall) and a \$52 income/asset copayment.

In order to be eligible for assistance with energy services, which includes amounts owed for heat services, the household member's assets must be budgeted. ERM 301 (February 2015), p. 4. A client must use countable cash assets, which includes money in savings accounts in excess of \$50, to assist in resolving the SER emergency ERM 205 (March 2013), pp. 1, 2. In this case, the Department testified that Claimant indicated in her SER application that she had a savings account with a \$102 balance. Claimant did not dispute this evidence. Because Claimant had cash assets in excess of \$50, the Department properly concluded that Claimant had a \$52 asset copay.

The Department testified that the \$214.05 in unmet required payments was based on Claimant's failure to make required payments in the six months preceding the SER application. To be eligible for energy service assistance, a SER group must make required payments towards its energy service. ERM 301, p. 5. A client is not responsible for making required energy payment for any months in which good cause is established. ERM 301, p. 7. If good cause does not exist, the client must make any shortfall payment within 30 calendar days of the application date before any SER payment by the Department can be authorized. ERM 301, p. 7.

Claimant, who lives with her two children, has a SER group size of three. ERM 301, p. 4. For a SER group size of three, good cause exists when the SER group's net countable income from all sources during each month the group failed to pay its

obligation was less than \$255 or if the emergency resulted from unexpected expenses related to maintaining or securing employment that equal or exceed the monthly obligation. ERM 204 (August 2014), pp. 2, 3.

In this case, Claimant's sole source of income during the six-months preceding her February 20, 2015, application (August 2014 to January 2015) was her \$492 monthly cash assistance under the Family Independence Program. Because Claimant had monthly income in excess of \$255 and no employment-related expenses between August 2014 and January 2015, she did not have good cause for any failure to make required energy payments.

Claimant's required payment is based on her SER group size and service (heat or electric) requested. ERM 301, p. 5. For a SER group of three, minimum required monthly heat payment is \$64 and the minimum total (heat and electricity) monthly required payment is \$99. ERM 301, p. 7. Required payments must be met for each of the month six months prior to application that the SER group has an obligation to pay for the service, and failure to make required payments may result in a shortfall. ERM 301, p. 6. Energy required payments are met if the amounts paid by the group for heating fuel and/or electricity equal or exceed the table amounts for the required payment for each month the SER group has an obligation to pay for the service. ERM 301, p. 6.

In this case, the six months prior to Claimant's February 2015 SER application are August 2014 to January 2015. The SER Unmet Need budget presented by the Department shows that in calculating the shortfall amount, the Department applied the payments made for both heat and electricity. Two methods for determining required payments are available: (1) only the payments made for the service requested are applied or (2) payments made for both heat and electricity are applied. ERM 301, p. 6. The client is eligible for the method that is most beneficial. ERM 301, p. 6. Because Claimant applied for both heat and electricity assistance, the Department properly applied the second method for calculating the shortfall and considered the total monthly required payment standard of \$99 and Claimant's payments towards both gas and electric services. Based on the required \$99 monthly required payment for heat and electric for August 2014 to January 2015, the total required payment for the six-month period was \$594. The Department subtracted from the \$594 the \$354.95 payment Claimant made to the energy provider on August 14, 2014, and the \$25 payment she made to the provider on October 15, 2014, to arrive at the \$214.05 shortfall. (Exhibit E.)

However, Claimant's payment history shows that there was an additional payment of \$457 made to Claimant's provider on October 13, 2014, through an "energy draft." Claimant explained that this payment was the home heating credit. Home heating credit assistance offers support for heating costs and is available through the Michigan Department of Treasury. http://www.michigan.gov/dhs/0,4562,7-124-5453_5531-15420--,00.html. The Department testified that it excluded this payment in assessing Claimant's shortfall. However, Department policy provides that, although previously

issued SER and MEAP funds cannot be used to make required payments, contributions from any other source, **including home heating credits applied to the group's account**, can count toward required payment amounts. ERM 301, p. 6.

Because the Department did not consider the home heating credit payment when determining Claimant's required payments, the Department did not act in accordance with Department policy in calculating the shortfall amount. Therefore, the Department did not act in accordance with Department policy when it concluded that Claimant had a \$214.05 shortfall she would be required to make before any SER assistance towards her gas bill was provided.

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 concluded that Claimant's SER assistance with gas was subject to her copayment of \$266.05.

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 February 20, 2015, SER application with respect to the request for assistance with gas energy-services;
2. Issue supplements to Claimant's provider for any SER benefits Claimant was eligible to receive but did not; and
3. Notify Claimant in writing of its decision.



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

Date Signed: **5/7/2015**

Date Mailed: **5/7/2015**

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]