

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-002850
Issue No.: 5007
Case No.: [REDACTED]
Hearing Date: April 23, 2015
County: Macomb (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 23, 2015, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Health and Human Services (DHHS) included [REDACTED], hearing facilitator.

ISSUE

The issue is whether DHHS properly determined Claimant's State Emergency Relief copayments.

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 [REDACTED] Claimant applied for SER seeking assistance \$3812 in rent assistance (through January 2015) to prevent eviction (see Exhibit 2).
2. On [REDACTED], DHHS issued a State Emergency Relief Decision Notice (Exhibit 3) approving Claimant for \$1,040 in SER funds, subject to Claimant providing proof of a \$2,772 copayment.
3. On an unspecified date, Claimant submitted proof to DHHS that she paid \$2772, as well as her February 2015 rent expenses.
4. On an unspecified date, DHHS verbally advised Claimant that she resolved her own emergency and no SER payment would occur.

5. On [REDACTED], Claimant requested a hearing (see Exhibit 1) to dispute the failure by DHHS to issue SER payment for rent assistance.

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 DHHS (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001 through R 400.7049. DHHS policies are contained in the Services Emergency Relief Manual (ERM).

Claimant requested a hearing to dispute a DHHS failure to follow through on a SER payment commitment. It was not disputed that DHHS committed \$1,040 towards Claimant's rent arrearage, subject to a Claimant copayment of \$2,772. DHHS contended that SER payment was properly not issued because Claimant resolved her own rent emergency.

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2013, p. 1). DHHS is to authorize and issue payment for all SER covered services using the DHHS-849, Authorization/Invoice. ERM 401 (October 2013), p. 1. A shut off notice or invoice must be obtained before authorizing a payment. *Id.* The emergency and need amount must continue to be verified by the worker. *Id.*

DHHS presented a Tenant Ledger Report (Exhibit 4). The ledger report verified the following transactions between Claimant and her landlord:

| Date | Description | Charges | Payments | Balance |
|------------|--------------------|----------|-----------|------------|
| [REDACTED] | February rent | \$750.00 | | \$4,275.00 |
| [REDACTED] | legal expenses | \$387.00 | | \$4,662.00 |
| [REDACTED] | late fee | \$75.00 | | \$4737.00 |
| [REDACTED] | water | \$254.35 | | \$4991.35 |
| [REDACTED] | client payment | | \$1822.00 | \$3169.35 |
| [REDACTED] | client payment | | \$1179.35 | \$1990.00 |
| [REDACTED] | client payment | | \$650 | \$1340.00 |
| [REDACTED] | St. Vincent DePaul | | \$300 | \$1040.00 |

DHHS contended that Claimant's payments for her February 2015 rental expenses should be applied towards the amount to prevent eviction. Accepting the DHHS contention also requires accepting that DHHS can dictate for what expenses that Claimant's payments should be applied. DHHS does not have such authority.

A 36th District Court Judgment- Landlord/Tenant (Exhibit 2) stated that Claimant had to pay \$3,812.00 to prevent eviction. The court order was signed [REDACTED]. It can

be presumed that Claimant's eviction costs only included rent due as of the date of the court order. Thus, the \$3,812.00 payment to stop eviction would not have included Claimant's February 2015 housing expenses.

Claimant credibly testified that any amounts she paid in excess of her required SER copayment were intended to pay her February 2015 housing expenses. Claimant's testimony is consistent with leaving a balance of \$1,040 after her February housing expense payments. Accepting Claimant's testimony is also consistent with the positive notion that clients should not be penalized for paying ongoing rental expenses.

Payment of Claimant's February 2015 housing costs does not satisfy Claimant's eviction payment requirements. It is found that Claimant still has a need of \$1,040.00 to prevent eviction. Accordingly, it is found that Claimant did not resolve her emergency and that DHHS erred by not issuing a \$1040.00 SER payment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHHS improperly failed to process Claimant's SER payment. It is ordered that DHHS process Claimant's SER payment subject to the finding that Claimant did not resolve her eviction by paying February 2015 housing expenses. The actions taken by DHHS are **REVERSED**.



Christian Gardocki
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/24/2015**

Date Mailed: **4/24/2015**

CG / hw

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:

