

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

IN THE MATTER OF:



Reg. No.: 15-004048
Issue No.: 5002
Case No.: [REDACTED]
Hearing Date: May 12, 2015
County: Oakland-District 3

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on May 12, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department included [REDACTED], as hearing facilitator.

ISSUE

Did the Department of Health and Human Services (Department) properly deny the Claimant's application for State Emergency Relief (SER) benefits?

FINDINGS OF FACT

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

1. The Claimant applied for State Emergency Relief (SER) benefits requesting assistance with her utility bills.
2. The Claimant receives monthly earned income from employment with the Novi school system in the gross monthly amount of \$ [REDACTED].
3. Three of the Claimant's children receive monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amounts of \$ [REDACTED], \$ [REDACTED] and \$ [REDACTED].
4. The Claimant has countable cash in the amount of \$ [REDACTED].
5. On February 20, 2015, the Department notified the Claimant that it had denied her SER application.
6. On March 3, 2015, the Department received the Claimant's request for a hearing protesting the denial of her application for SER benefits.

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.

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2014).

The Claimant applied for State Emergency Relief (SER) benefits with a need of \$ [REDACTED] of assistance with her utility bills. The Claimant receives monthly earned income from employment with the [REDACTED] in the gross monthly amount of \$ [REDACTED]. The Department determined that another member of the Claimant's household receives earned income from employment in the gross monthly amount of \$ [REDACTED] although this figure may have not been properly calculated. Three children in the Claimant's household receive Retirement, Survivors, and Disability Insurance (RSDI) in the total gross monthly amounts of [REDACTED]. The group has cash assets of \$ [REDACTED].

The Department determined that the Claimant was responsible for an income based co-payment of \$ [REDACTED] by subtracting the \$ [REDACTED] income need standard from her net countable income. Department of Health and Human Services Emergency Relief Manual (ERM) 206 (October 1, 2013), p 6. The Department determined that the Claimant was responsible for an asset based co-payment of \$ [REDACTED]. The SER group must use countable cash assets to assist in resolving their emergency but the Department will exclude the first \$ [REDACTED] of an SER group's cash assets. Department of Health and Human Services Emergency Relief Manual (ERM) 205 (March 1, 2013), p 1. The Department denied the Claimant's SER application because the sum of the income and asset co-payments she would have to pay before receiving any SER benefits exceeded the amount necessary to resolve her emergency.

Based on the evidence and testimony on the record, this Administrative Law Judge finds that the projected earned income received by a member of the Claimant's household was not properly determined because the Department may have used an improperly period of employment to determine this amount.

However, this Administrative Law Judge finds this to be harmless error and that if the non-SER income listed in the Department's records for February of 2015 was used to determine eligibility; the Claimant would continue to be ineligible based on the amount of her co-payments. The Department has the burden of establishing that it was acting in accordance with policy while the Claimant has the burden of establishing that she is eligible for benefits. In this case, the Claimant has failed to establish that she would have been eligible for benefits if not for the Department's error determining monthly earned income.

If all of the disputed income was removed from the Claimant's co-payment determination, she would remain ineligible. If the Department reduced the \$ [REDACTED] of earned income that was not disputed by the 25% deduction for taxes, added the gross \$ [REDACTED] of Retirement, Survivors, and Disability Insurance (RSDI) benefits, then reduced this amount by the \$ [REDACTED] income need standard, she would have an income co-payment of \$ [REDACTED] which by itself exceeds the \$ [REDACTED] requested.

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 the Claimant's State Emergency Relief (SER) application.

DECISION AND ORDER

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



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/19/2015**

Date Mailed: **5/19/2015**

KS/las

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:

