

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

**IN THE MATTER OF:**

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

Reg. No.: 15-005075  
Issue No.: 5001  
Case No.: ██████████  
Hearing Date: May 7, 2015  
County: WAYNE-DISTRICT 76  
(GRATIOT/SEVEN M)

**ADMINISTRATIVE LAW JUDGE: Eric Feldman**

**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 May 7, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████, Hearings Facilitator; and ██████████, Assistant Payment Worker.

**ISSUE**

Did the Department properly deny Claimant's State Emergency Relief (SER) application for water or sewage?

**FINDINGS OF FACT**

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

1. In January or February of 2015, Claimant applied for non-heat electricity (electricity), heat, and water or sewage.
2. On February 4, 2015, the Department sent Claimant an SER Decision Notice informing her that the Department approved her SER request for heat (██████████ payment approval) and electricity (██████████ payment approval). See Exhibit 1, p. 7. Further, the SER Decision Notice informed Claimant that her SER request for water or sewage was denied because she did not have a past due or shutoff notice. See Exhibit 1, pp. 7-8.
3. On March 13, 2015, Claimant applied for SER assistance for water or sewage in the amount of ██████████. See Exhibit 2, pp. 1-3. In the application, Respondent

indicated that she receives [REDACTED] in monthly Supplemental Security Income (SSI) benefits and [REDACTED] in State SSI Payments (SSP), which are issued quarterly. See Exhibit 2, p. 2.

4. On March 17, 2015, the Department sent Claimant an SER Decision Notice informing her that her SER request for water or sewage ([REDACTED]) was denied because her income/asset copayment is equal to or greater than the amount needed to resolve the emergency. See Exhibit 1, p. 5.
5. On March 23, 2015, Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, p. 2.

### **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.

#### **Preliminary matters**

First, Claimant did not dispute the SER Decision Notice dated February 4, 2015, which approved her SER request for heat and electricity. See Exhibit 1, p. 7. However, Claimant testified that she again applied for SER assistance for heat and electricity on April 6, 2015 and argued that the Department has yet to process the application. This Administrative Law Judge (ALJ) lacks the jurisdiction to address Claimant's alleged application dated April 6, 2015 because it occurred after her hearing request. See BAM 600 (January 2015 and April 2015), pp. 4-6. As such, this hearing decision will not further discuss Claimant's SER assistance request for heat and electricity.

Second, Claimant had two applications for water or sewage in this case (January or February of 2015 and March 13, 2015). Ultimately, Claimant indicated that she disputed the denial of the SER assistance request for water or sewage dated March 17, 2015. As such, this ALJ will address whether the Department properly denied Claimant's SER application for water or sewage effective March 17, 2015.

## **SER application**

SER helps to restore or prevent shut off of a utility service specified in this item when service is necessary to prevent serious harm to SER group members. ERM 302 (October 2013), p. 1. Utility services includes the payment of an arrearage to maintain or restore service for water, sewer or cooking gas. ERM 302, p. 1. Before authorizing the department's portion of the cost of services, the Department verifies that the income and asset copayment, shortfall, and contribution have been paid by the client or will be paid by another agency. ERM 302, p. 3.

On March 17, 2015, the Department sent Claimant an SER Decision Notice informing her that her SER request for water or sewage [REDACTED] was denied because her income/asset copayment is equal to or greater than the amount needed to resolve the emergency. See Exhibit 1, p. 5.

A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in Exhibit I, SER Income Need Standards for Non-Energy Services. ERM 208 (October 2014), p. 1. The SER Income Need Standards for Non-Energy Services states that the income need standard for a SER group size of one is [REDACTED]. ERM 208, p. 5.

Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. ERM 208, p. 1. This is the income copayment. ERM 208, p. 1.

The income and asset copayments combined together determine the SER group's total copayment. ERM 208, p. 2. The total copayment is the amount the SER group must pay toward their emergency. ERM 208, p. 2. Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, p. 2.

First line managers can modify an income copayment for non-energy services. ERM 208, p. 2. The manager must approve the modification in its system. ERM 208, p. 2. This applies only if one of the following circumstances exists:

- The SER group used available income:
  - To meet unusual expenses essential to protect their safety.
  - To secure or maintain employment.
- The provider demands payment in advance, but the income is not available to the SER group until later in the budget period. (Example: Retirement, Survivors, and Disability Insurance (RSDI) is the only source of income and will not be received for three weeks).

ERM 208, pp. 2-3. When modifying an income copayment, the copayment may be reduced or waived entirely. ERM 208, p. 3. The full copayment amount up to the SER need may be paid. ERM 208, p. 3. Take this alternative when no other alternative exists for meeting the emergency. ERM 208, p. 3. The SER group may be required to sign a DHS-2157, Repay Agreement, for the income copayment amount. ERM 208, p. 3. Reminder, Repay agreements cannot be taken against RSDI/SSI. ERM 208, p. 3.

If the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied unless good cause is granted. ERM 103 (October 2013), p. 4.

In this case, the Department presented a co-payment calculation/budget. See Exhibit 1, pp. 10-11 and Exhibit 2, pp. 4-5. The Department calculated the total unearned income to be [REDACTED] based on Claimant's SSI benefits. See Exhibit 1, pp. 10-11 and Exhibit 2, pp. 4-5. Claimant did not dispute this amount. Then, the Department subtracted the [REDACTED] countable income from the [REDACTED] income need standard for a group size of one; this resulted in an initial income co-payment of [REDACTED]. See Exhibit 1, pp. 10-11; Exhibit 2, pp. 4-5; and See ERM 208, p. 5. Claimant argued that she had unexpected and ongoing medical expenses in which she used her SSI income to make monthly payments and therefore, precludes her to pay her water bill. Claimant provided verification of her medical expenses. See Exhibit A, pp. 1-9.

The Department establishes the SER countable income period and determines the SER group's net countable income based on the application date and entry of income information in the data collection screens. ERM 206 (October 2013), p. 1. Self-employment and unearned income must be entered using paydates that fall within the 30 day SER period to be budgeted. ERM 206, p. 1. The Department counts SSI income using the net amount received (note: do not count reimbursement of Medicare premiums). See ERM 206, p. 1. Net unearned income must be determined by deducting all of the following from the gross amount received:

- Mandatory withholding taxes.
- Court ordered child support paid, including arrears, but not more than the amount ordered by the court. No deduction is made for paid, voluntary child support.
- Payments for health insurance.
- Medicare premiums that will not be reimbursed.

ERM 206, pp. 4-5.

Based on the above policy information, the Department properly determined that Claimant's net unearned income amount received is [REDACTED]. See ERM 206, pp. 1-6. Claimant's medical expenses cannot be deducted from the net unearned income as they are not considered payments for health insurance or Medicare premiums that will not be reimbursed. See ERM 206, pp. 4-6.

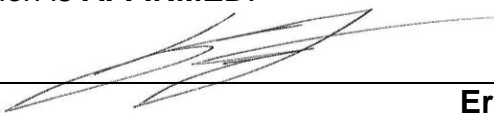
Additionally, policy does state that first line managers can modify an income copayment for non-energy services based on the SER group using available income to meet unusual expenses essential to protect their safety. Claimant's medical expenses could possibly fall under this exception. It should be noted that there was no other evidence presented to see if Claimant could meet the other exceptions (i.e., to secure or maintain employment). ERM 208, pp. 2-3. However, the Department argued that Claimant never notified the Department of such expenses in the application and she only produced medical expenses for the year 2014 at the pre-hearing conference dated April 6, 2015. Thus, it can be inferred that Claimant did not notify the Department of any medical expenses until after the denial. In fact, a review of Claimant's application found that she did not list any form of medical expenses. See Exhibit 2, pp. 1-3. Thus, the evidence established that the Department did not need to consider modifying the income copayment. See ERM 208, pp. 2-3. Moreover, this ALJ interprets this policy to mean it is as the discretion of the Department to modify the income copayment and not mandatory. See ERM 208, p. 2 (emphasis added) (First line managers *can* modify. . .).

Nevertheless, the Department completes an SER budget for each request/application. ERM 103, p. 2. The Department calculates payment maximums, required payments, income and asset copayment, client contributions, etc. based on the information entered from the SER application and determines eligibility or ineligibility for SER. See ERM 103, p. 2. Based on the information Claimant provided in her SER application, the Department properly determined that her initial income co-payment is [REDACTED]. See Exhibit 1, pp. 10-11; Exhibit 2, pp. 4-5; and See ERM 208, p. 5. Policy states that if the copayment, shortfall, contribution or combination exceeds the need, the application shall be denied unless good cause is granted. ERM 103, p. 4. It should be noted that good cause exception is applicable to required payments/shortfall. See ERM 204 (August 2014), pp. 1-3 and ERM 302, p. 2. The evidence established that Claimant's copayment of [REDACTED] exceeded the need of [REDACTED] and therefore, the Department properly denied the SER application for water or sewage in accordance with Department policy. See ERM 103, p. 4 and Exhibit 2, pp. 4-5. Claimant can reapply for SER assistance.

### **DECISION AND ORDER**

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 assistance request for water or sewage.

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



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**Eric Feldman**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Signed: **5/8/2015**  
Date Mailed: **5/8/2015**

**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]