

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-010907
Issue No.: 3000, 5008
Case No.: [REDACTED]
Hearing Date: August 19, 2015
County: WAYNE-DISTRICT 55

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, an in person hearing was held on August 19, 2015, from Hamtramck, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly calculate the Claimant's SER copayment for Non Energy home repair?

Did the Department properly calculate Claimant's FAP 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's FAP Hearing Request was resolved prior to the hearing and the Claimant no longer wished to proceed on that issue.
2. The Claimant filed an Application for SER non energy home repair assistance on [REDACTED]. Exhibit 1
3. The Claimant's request for SER home repair was for asbestos removal from ducts attached to the furnace to correct a health-related necessary home repair. The Claimant provided an estimate which was accepted by the Department in the amount of \$850. Exhibit 2

4. The Claimant's income, received as RSDI, is \$1110. The Claimant had a checking account balance of \$55. The Claimant is a FAP recipient. Exhibits 4 and 6
5. The Department issued an SER Decision Notice on [REDACTED], finding the Claimant's copayment amount was \$670.65 and the Department would pay \$179.35. Exhibit 3
6. The Claimant requested a timely hearing on [REDACTED], protesting the Department's actions.

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 this case the only issue which requires resolution is whether the Department correctly determined the Claimant's copayment responsibility for non-energy related home repair due to asbestos contamination with regard to ducts connected to Claimant's furnace. The Department did not include the correct mortgage amount paid by Claimant and conceded error in this regard. The correct mortgage amount is \$690 per month. The Department did not provide a budget to document how it arrived and the SER home repair copayment amount. Exhibit 1

Department policy requires that a determination be made regarding housing affordability as a first step in determining eligibility. The Department policy provides:

Issue home repair payments only if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. The repair(s) must restore the home to a safe, livable condition. ERM 304 (October 1, 2013), p. 1.

In order to be eligible for services the ongoing cost of maintaining the home is affordable to the SER group;

ERM 207 provides as regards housing affordability the following:

In determining housing affordability the Department policy provides:

Affordability Calculation

Determine whether an SER group meets the Housing Affordability requirement:

Multiply the group's total net countable income by 75 percent. The result is the maximum total housing obligation the group can have based on their income, and be eligible for SER housing services, . ERM 207 (March 1, 2013), p. 2.

In this case multiplying the Claimant's monthly income of \$1110 received in RSDI by 75% is \$832, thus the housing is affordable.

The Claimant's SER group consists of one member and the income need standard for a group of one is \$445. ERM 206, p.6.

SER group members must use their available income and cash assets that will help resolve the emergency. Do not authorize a SER payment unless it will resolve the emergency.

Income Copayment

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.** (Emphasis supplied).

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. This is the income copayment. ERM 206 October 1, 2014, p.1.

The total copayment is the amount the SER group must pay toward their emergency. Copayment amounts are deducted from the cost of resolving the emergency. ERM 206, p.2.

If the SER group meets all eligibility criteria but has a copayment, shortfall or contribution, do not issue payment until the client provides proof that their payment has been made or will be made by another agency. **Verification of**

payment must be received in the local office within the 30-day eligibility period or no SER payment will be made. The client will then have to reapply. The DHS-1419, Decision Notice, must be used to inform the SER group of the amounts that they must pay and the due date for returning proof of their payment. ERM 206, p 4. (Emphasis supplied).

The income need standard for non-energy services for a group size of one is \$445. The need standard is deducted from the Claimant's net income of \$1110 and leaves a difference of \$655, which is the Claimant's income copayment amount. This amount is less than the Claimant's share of the total cost of repairs (\$850). The Claimant share or income copayment is then deducted to determine the Department's share.

In this case the total repairs are \$850 and the Claimant income copayment is \$655, leaving a payment by the Department of \$195. The Department must pay \$195. The Claimant must pay the income copayment amount and provide proof of payment by the due date on the SER Decision Notice to be reissued by the Department. The Claimant may also seek assistance from other community programs to assist in meeting his copayment, but this must be met by the copayment due date.

The Department's Decision Notice found that the Claimant's copayment was \$670.65 which is in error based upon policy referenced above. In addition the Claimant has no asset copayment because he is a FAP recipient, and policy provides SER groups composed solely of FIP, SDA, SSI, MA and Food Assistance Program (FAP) recipients have automatic eligibility on the basis of **non-cash** assets.

The first \$50 of an SER's group cash assets are excluded. SER groups with only one member have a \$1750 non-cash asset limit. ERM 206 (March 1, 2013), p. 1. The Claimant reported no other assets except a checking account containing \$55 and his car, which is excluded. ERM 206, p.3

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 calculated the Claimant's non-energy services copayment amount for non-energy home repair. The Administrative Law Judge also finds that there is no issue to be decided regarding the Claimant's request for hearing for FAP benefit amount.

DECISION AND ORDER

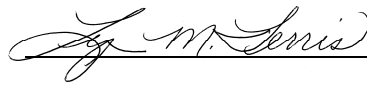
Accordingly, the Department's decision is

REVERSED as regards the SER Decision

The Claimant's request for hearing regarding FAP benefits is hereby DISMISSED.

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. The Department shall reinstate the Claimant's SER application and process the SER application and issue a new SER Decision Notice in accordance with this Hearing Decision.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/20/2015**

Date Mailed: **8/20/2015**

LMF / 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:

