

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No.: 2007-23544
Issue No.: 3014/5012
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
August 22, 2007
Wayne County DHS (58)

ADMINISTRATIVE LAW JUDGE: Michael J. Benmane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; MSA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on August 22, 2007. The Claimant personally appeared and testified.

ISSUES

Did the Department properly deny the Claimant's application for State Emergency Relief (SER) and close her Food Assistance Program (FAP)?

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 June 4, 2007, the Claimant applied for SER energy assistance. (Department's exhibit 11)
2. On June 11, 2007, The Claimant's mother applied for FIP, FAP MA and CDC. (Department's exhibit 1, p. 1)

3. On June 27, 2007, the Department ran a SER budget and the Claimant's SER application was denied. (Department's exhibit 6)
4. On June 27, 2007, the Department sent the Claimant a notice that her FAP benefits would end on July 10, 2007. (Department's exhibit 3)
5. On July 9, 2007, the Department received the Claimant's request for a hearing.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, et seq., and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, et seq., and by final administrative rules filed with the Secretary of State on October 28, 1993. MAC R 400.7001-400.7049. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the State Emergency Relief Manual (SER).

Here, the Department relies on an application for benefits filed by the Claimant's mother to define the SER and FAP groups.

Determine SER eligibility for the group as a whole. SER groups are the basic unit of SER eligibility. Verify income, assets and potential resources of all group members.

A single SER group consists of persons who occupy the same home. "Home" means the place where the members of the SER group keep their personal belongings and sleep. (SER 201, p. 1).

FAP groups are defined in PEM 212:

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First determine if they **must** be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately....

Parents and Children

Children include natural, step and adopted children.

Parents and their children **under 22 years of age** who live together **must** be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. (PEM 212, p. 1)

The Department relies on the information contained in the mother's application even though that application conflicts with the Claimant's application. The Department also relies on a written statement made by the mother that she and her daughters purchase food and prepare meals together. The Department does not take further action to resolve this conflict but applies the group as stated on the mother's application.

Discrepancies

All Programs

Before determining eligibility, give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. (PAM 130, p. 5).

Here, the Department gives no opportunity to resolve the conflict but applies the facts as stated on the mother's application to the daughter's.

In the instant case the SER group includes all those that occupy the same home. Therefore, the SER budget is correct and the decision on the SER is correct.

The FAP groups remain separate and information gleaned from another application cannot override the first.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AFFIRMS the Department's decision on the SER. On the Issue of the Claimant's FAP the Department is REVERSES AND ORDERS to reinstate the Claimant's FAP in a separate group, restoring any lost benefits.

/s/

Michael J. Bennane
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/23/09

Date Mailed: 06/23/09

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

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