

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: 2009-11700

Issue No: 3002; 5026

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 13, 2009

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on May 13, 2009. The claimant personally appeared and provided testimony.

ISSUES

(1) Did the department properly deny the claimant's State Emergency Relief (SER) application in November, 2008?

(2) Did the department properly budget the claimant's Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. The claimant applied for SER on November 20, 2008, requesting help with an eviction (Department Exhibit #1 – 5).

2. On the application, the claimant indicated that he did not have any income (Department Exhibit #2).

3. The claimant's SER application was denied because he had no income, which made the shelter not affordable (Department Exhibit #8).

4. The claimant applied for FAP benefits on August 6, 2008. The claimant provided check stubs showing his income for the previous 30 days, which was a budgetable total of [REDACTED]. The claimant had rent expense of [REDACTED]. The claimant was eligible for a FAP benefit of \$10 monthly (Department Exhibit #10 – 12).

5. The claimant completed a Semi-Annual Contact Report on January 7, 2009, and indicated he was homeless (Department Exhibit #13 – 14) .

6. The department re-budgeted the claimant's FAP case for February, 2009, using the previous 30 days of income and no rent expense (since the claimant was homeless), which resulted in a monthly benefit of \$14 (Department Exhibit #15 – 17).

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 (DHS or department) 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 (DHS or department) policies are found in the State Emergency Relief Manual (SER).

Department policy states:

DEPARTMENT POLICY

State Emergency Relief (SER) prevents serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM, Item 101, p. 1.

Requirements

Residence in the State of Michigan is not required. SER serves all persons physically present in Michigan. In addition, SER applicants must:

- Complete the application process
- Meet financial and non-financial requirements
- Have an emergency which threatens health or safety and can be resolved through issuance of SER
- Take action within their ability to help themselves, i.e., obtain potential resources and/or apply for assistance
- Not have caused the emergency (ERM, 204, Client-Caused Emergency)
- Cooperate in providing information about income, assets, living arrangements, and other persons living in the home

Deny SER services for applicants who fail to meet any of the above requirements. ERM, Item 101, p. 1.

Applicant Responsibilities

Applicants must cooperate in the following:

- The application process
- Providing verifications
- Answering all questions truthfully and completely whether written or oral

Deny SER if applicants refuse to take action, provide information within their ability, or withdraw their application. ERM, Item 102, p. 1.

Approval

Certain conditions must be met before SER can be issued to help individuals and families whose health and safety are threatened:

- . Prior written or oral approval must be given by an authorized department staff person before SER issuance. Do not issue SER to reimburse expenses incurred or paid without prior department approval.
- . The SER payment must resolve the emergency.
- . The group must meet all applicable policy requirements for the SER service. ERM, Item 103, p. 2.

DHS-1419, Decision Notice

Inform all SER applicants in writing of the decision made on their application. Mail or give the DHS-1419, Decision Notice, to the applicant.

If the SER group meets all eligibility criteria but has an income or asset co-payment or shortfall or contribution, SER eligibility may be approved on SIMS, but do not issue payment until the client provides proof that the shortfall or contribution, and/or co-payment has been made.

Verification of payment must be made within the 30-day authorization period or no SER payment will be made and the client will have to reapply.

If the co-payment, shortfall, contribution or combination exceeds the need, the application can be denied. ERM, Item 103, p. 3.

HOUSING AFFORDABILITY

DEPARTMENT POLICY

Housing affordability is a condition of eligibility for SER and applies only to Relocation Services (ERM 303) and Home Ownership Services and Home Repairs (ERM 304). Housing affordability does not apply to other SER services. ERM, Item 207, p. 1.

Requirements

In this item, “total housing obligation” means the total amount the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. Renters can have a higher “total housing obligation” if heat, electricity and/or water/cooking gas are included.

Authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized.

Deny SER if the group does not have sufficient income to meet their total housing obligation. The total housing obligation cannot exceed 75% of the group’s total net countable income. ERM, Item 207, p. 1.

DEPARTMENT POLICY

FIP, SDA, CDC and FAP

A group’s financial eligibility and monthly benefit amount are determined using:

- . actual income (income that was already received), and/or
- . prospected income amounts (not received but expected).

Only countable income is included in the determination (see PEM 500).

Each source of income is converted to a standard monthly amount, unless a full month’s income will not be received (see Standard Monthly Amount in this item). PEM, Item 505, p. 1.

DETERMINING BUDGETABLE INCOME

FIP, SDA, CDC, FAP

Determine budgetable income using countable, available income for the benefit month being processed. PEM, Item 505, p. 2.

Non-Child Support Income

Using Past Income

Use past income to prospect income for the future unless changes are expected:

- . Use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month.

Note: The 30-day period used can begin up to 30 days before the interview date or the date the information was requested.

Discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. Document which pay is being discarded and why. For example, the client worked overtime for one week and it is not expected to recur.

- . Use income from the past 60 or 90 days for fluctuating or irregular income, if:
 - .. the past 30 days is not a good indicator of future income, and
 - .. the fluctuations of income during the past 60 or 90 days appear to accurately reflect the income that is expected to be received in the benefit month.

Note: The 60 or 90-day period used can begin up to 60 or 90 days before the interview date or the date the information was requested. PEM, Item 505, pp. 5-6.

WHEN TO COMPLETE A BUDGET

FIP, SDA, CDC, FAP

Client reporting requirements **do not** necessarily affect when a budget must be completed.

Complete a budget when:

- . the department is made aware of or the client reports a change in income that will affect eligibility or benefit level, or
- . a reported change results in the need to convert income to or from a standard monthly amount. PEM, Item 505, p. 8.

SHELTER EXPENSES

Allow a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. Do **not** prorate the shelter expense even if the expense is shared. Shelter expenses are

allowed when billed. The expenses do **not** have to be paid to be allowed. PEM, Item 554, p. 9.

Heat Included in Rent or Fees

FAP groups whose heat is **included** in their rent or fees are not eligible for the Heat and Utility Standard, **unless**:

- . they are billed for **excess heat** payments from their landlord,
OR
- . they report that they received, applied for or will be applying for a Home Heating Credit warrant in the current fiscal year (October through September) for their current address.

Verification

Verify the excess heat expense at application and when a change is reported. Accept the client's statement regarding Home Heating Credit receipt or future application. PEM, Item 554, pp. 11-12.

The claimant indicates that he is disputing his SER application denial and the amount of FAP benefits he receives. The claimant applied for SER on November 20, 2008, requesting help with an eviction. On his application, he indicated that he had no income.

Department policy indicates that housing affordability is a condition of eligibility for SER. ERM 207. Policy indicates that an SER request for housing services can be approved only if the SER group has sufficient income to meet ongoing housing expenses. ERM 207. SER is denied if the SER group does not have sufficient income to meet their total housing obligation. The total housing obligation cannot exceed 75% of the group's total net countable income. ERM 207. In this case, the claimant indicated there was no household income on his SER application. Thus, any expense for housing would not be affordable, as the SER group has no income to meet ongoing household expenses. Thus, the department denied the application as policy requires.

The claimant also indicates that he believes he should receive more FAP benefits. The claimant applied for FAP on August 6, 2008. The department took his previous 30 days of income and averaged it for a monthly total to be used in the budget. The claimant also had a rent

expense of [REDACTED], which included utilities. The claimant completed a Semi-Annual Contact Report on January 7, 2009, and indicated he was homeless. Thus, the department re-budgeted his FAP benefits to include the average of the 30 previous days of income and no rent expense.

Department policy indicates that income is to be averaged for a monthly period. PEM 505. For each budget, the department used the claimant's previous 30 days of check stubs to average the monthly income. Department policy also indicates that shelter expenses are allowed and that the claimant would not get a heat and utility standard deduction if the expenses are paid by the landlord. PEM 554. The claimant indicated the heat, electric and water/sewer bills were paid by the landlord. Thus, the department properly included the rent expense until the claimant indicated he was homeless and did not include any heat and utility standard. Thus, the department properly budgeted the claimant's FAP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly denied the claimant's SER application in November, 2008 and properly budgeted the claimant's FAP benefits in August, 2008 and February, 2009.

Accordingly, the department's actions are UPHeld. SO ORDERED.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 19, 2009

Date Mailed: May 20, 2009

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.

SLK/om

cc:

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