

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: 2009-21454

Issue No: 3014; 5016

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

May 7, 2009

Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on May 7, 2009. Claimant personally appeared and testified.

ISSUES

(1) Did the Department of Human Services (the department) properly deny claimant's application for State Emergency Relief (SER)?

(2) Did the Department of Human Services (the department) properly determine that claimant was to receive \$14 per month in 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) On August 29, 2008, claimant filed an application for State Emergency Relief for heat shutoff.

(2) The department caseworker determined that claimant had already reached her yearly cap of \$350 allotted for heat payments.

(3) On September 4, 2008, the department caseworker sent claimant notice that her application for SER was denied since she had reached her yearly cap in the heat payments.

(4) On September 19, 2008, the department caseworker sent claimant notice that she was to receive \$14 in Food Assistance Program benefits and there was no change in the Food Assistance Program benefit eligibility.

(5) On September 9, 2008, claimant filed a request for a hearing to contest the department's negative action.

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).

In the instant case, claimant's eligibility for Food Assistance Program benefits did not change during this hearing and therefore there was no negative action in terms of the Food Assistance Program benefits.

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).

Low income households who meet eligibility requirements can receive assistance to help them meet their household heat and electric costs. Funding for energy services assistance is through the Low Income Home Energy Assistance Program. (ERM 301, p. 1) To be eligible for energy service assistance, a SER group must make required payments toward their energy service bills unless the case is categorically eligible. (ERM 301, p.4) The department determined that claimant's income and asset co-payment is equal to or greater than the amount needed to resolve claimant's emergency. Claimant's request for heat shutoff natural gas or wood was \$216.24. Claimant had an energy payment obligation of \$53 per month and electricity of \$29 every month. The department determined that claimant had reached the maximum amount allowed for State assistance on her utilities.

The fiscal year cap for natural gas and wood energy is \$550. (ERM 301, p. 7) The yearly cap for 2008 was \$350. Claimant had already exceeded her maximum amount allowed for State assistance on her utilities and also her income and asset co-payment was equal to or greater than the amount needed to resolve the emergency. Therefore, the department caseworker appropriately established on the record that claimant was ineligible to receive assistance with her heat and utilities for the foregoing reasons.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, determines that the department has established by the necessary, competent, material and substantial evidence on the record that it was acting in compliance with department policy when it determined that claimant was to receive \$14 per month in Food Assistance Program benefits

and when it determined that claimant was ineligible to receive State Emergency Relief based upon its determination that claimant had already received her yearly cap of \$350 allowed for heat payments and because claimant's co-payment exceeded the amount needed to resolve the emergency.

Accordingly, the department's decision is AFFIRMED.

/s/

Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 28, 2009

Date Mailed: May 29, 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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

LYL/vmc

cc:

