

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Claimant

Reg. No.: 2009-26431
Issue No.: 3002/5026
Case No.:
Load No.:
Hearing Date:
July 23, 2009
Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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 July 23, 2009. The Claimant personally appeared and testified.

ISSUE

Did the Department correctly calculate the Claimant's Food Assistance (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) The claimant is a FAP recipient. The group size is six (6).
- (2) On March 15, 2009, the claimant's FAP was up for redetermination.
- (3) On April 6, 2009, the claimant contacted the change center to report a change in her rent.
- (4) On April 6, 2009, the Department sent the claimant a verification checklist requesting proof of her change in rent, due April 16, 2009. (Department exhibit 8).

- (5) On June 19, 2009, the Claimant filed a request for a hearing contesting her FAP benefit and the denial of an application for State Emergency relief (SER) for rent.

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 Tables (PRT).

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). The claimant questions the amount of the FAP allotment. The claimant has a net income of \$1,194.00. This was obtained by subtracting the standard deduction allowed at the time of \$188.00 from the gross income of \$1,382.00.

The amount of a monthly FAP allotment is established by regulations at 7 CFR 273.10. A household of six persons with a net monthly income of \$1,194.00 was entitled to a monthly FAP grant of \$593.00 per month. (RFT 260, p. 11).

This ALJ finds that the department was correct in its calculation of the claimant's FAP.

In regards to the SER application the department claims the SER was denied because the claimant had already moved into her new home and there was therefore no emergency.

ELIGIBILITY REQUIREMENTS

Authorize relocation services only if one of the following circumstances exists and all other SER criteria are met.

Homeless

The SER group is homeless. The definition of homeless includes:

Persons living in an emergency shelter or motel, in HUD-funded transitional housing for homeless persons who originally came from the street, in a car on the street or in a place unfit for human habitation and there is no housing they can return to. Groups who voluntarily left their home, but can return without a threat to their health or safety, are not homeless.

Persons exiting jail, prison, a juvenile facility, a hospital, a medical setting, foster care, a substance abuse facility or a mental health treatment setting with no plan or resources for housing and no housing to return to.

Persons who meet the eligibility requirements for one of the following homeless assistance programs:

Homeless Assistance Recovery Program (HARP).

Transitional Supportive Housing Leasing Assistance Program (TSHLAP).

Transition In Place Leasing Assistance Program (TIPLAP).

Rapid Re-Housing Leasing Assistance.

Temporary Basic Rental Assistance (TBRA) funded by MSHDA. (ERM303, p. 1-2)

Here, it was established that the claimant was already residing in her new home. I find that the department was correct in denying the SER application due to lack of an emergency.

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, AFFRIMS the department's actions finding that the claimant is receiving the correct monthly FAP allotment and that the department was correct in denying the SER application.

/s/

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

Date Signed: 09/03/09

Date Mailed: 09/08/09

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.

MJB/jlg

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