

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.: 2009-277
Issue No.: 3002/5016
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
December 15, 2008
Wayne County DHS [REDACTED]

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 December 15, 2008. The Claimant personally appeared and testified.

ISSUE

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

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 July 2, 2008, the Department sent the Claimant forms to be completed for a review of her FAP benefits. (Department exhibit I).

2. On September 3, 2008, the Department ran a new FAP budget based on income information supplied by the Claimant. (Department exhibit III).
3. On September 3, 2008, the Department sent the Claimant a notice that her FAP benefits would be reduced.
4. On September 4, 2008, the Claimant applied for SER for energy. (Department exhibit IA).
5. On September 13, 2008 the Department sent the Claimant notice that her application for SER was denied because her services were not in shut off status. (Department exhibit 5A).
6. On September 22, 2008, the Claimant filed a 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).

This ALJ determined that the Claimant's energy account had been resolved through a payment plan by the Claimant.

Low-income households who meet eligibility requirements in this item 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 (LIHEAP).

COVERED SERVICES

Heating, Electric or Deliverable Fuels

When the group's heating or electric service for their current residence is or will be shut off, or payment is necessary to restore service, authorize payment for the shutoff or restoration amount to the provider up to the fiscal year cap. (ERM301, p. 1)

And:

The client must provide a shutoff/reconnect notice, declare a need for deliverable fuel or provide verification of the need for a home repair. (ERM 301, p.3.

Since the emergency had been addressed by the Claimant's reaching a payment agreement with the energy supplier, the energy service was no longer in danger of a shut off. Pursuant to policy, SER may not be granted unless there is an emergency as defined above.

When the Department received income information from the Claimant during its review of the Claimant's FAP it used the income documentation supplied by the Claimant for that purpose.

However, the Claimant testified that the documentation supplied, upon which the FAP budget was based, includes the aberration of a holiday supplement that is not

normally a part of her compensation. Under Department policy irregular income is budgeted as follows:

Irregular Income

For irregular income, determine the standard monthly amount by adding the amounts entered together and dividing by the number of months used. (PEM 505, p. 8)

The Department should have averaged the income based on information supplied by the Claimant. Therefore, the Department should recalculate the Claimant's FAP using new documentation supplied.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, **AFFIRMS** the Department's decision to deny the SER application but, **REVERSES AND ORDERS** the Department to utilize the information supplied by the Claimant to average the holiday income with information supplied by the Claimant and/or her employer and replace any lost benefits if applicable.

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

Date Signed: 03/12/09

Date Mailed: 03/12/09

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 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 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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