

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.: 2009-12169
Issue No.: 3003; 5032
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 17, 2009
Oakland County DHS (4)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 17, 2009. The Claimant appeared and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department.

ISSUES

1. Whether the Department properly terminated the Claimant's Food Assistance Program ("FAP") benefits effective December 31, 2008?
2. Whether the Department properly denied the Claimant's State Emergency Relief ("SER") application based upon the total shortfall/co-payment exceeding the SER need?

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 was a FAP recipient.
2. The Department terminated the Claimant's FAP benefits effective December 31, 2008.

3. On January 13, 2009, the Claimant re-applied for FAP benefits. (Exhibit 1. pp. 21 – 36)
4. On January 21, 2009, the Claimant submitted an application for State Emergency Relief based upon an eviction notice. (Exhibit 1, pp. 3 – 8)
5. On January 23, 2009, the Department sent notification to the Claimant that the SER application was denied due to the total shortfall and co-payment exceeding the SER need. (Exhibit 1, pp. 17 – 20)
6. On January 29, 2009, the Claimant was issue an \$80.00 prorated FAP benefit for the period from January 13th through January 31, 2009. (Exhibit 1, pp. 37, 41)
7. The Department determined the Claimant was not eligible for FAP benefits effective February 1, 2009 due to excess income. (Exhibit 1, p. 41 – 44)
8. On January 23, 2009, the Department received the Claimant’s written request for hearing protesting the SER application and FAP benefits.
9. The Claimant was evicted from her apartment and has relocated.

CONCLUSIONS OF LAW

FAP closure

The Food Assistance Program, 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”), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual (“PAM”), the Program Eligibility Manual (“PEM”), and the Program Reference Manual (“PRM”).

The semi-annual mid-certification contract must be completed by the sixth month of the benefit period and a budget completed, if applicable, to effect benefits no later than the seventh month's benefits. PAM 210 The contact is met by receipt of a completed DHS-1046 and required verifications from the client or the client's authorized representative. PAM 210

All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. The Department must consider the gross benefit amount before any deduction, unless Department policy states otherwise. PEM 500 A group's monthly benefits are based in part, on a prospective income determination. PEM 505 A standard monthly amount must be determined for each income source used in the budget. PEM 505 Weekly benefit amounts are converted to a monthly amount by multiplying the weekly amount by 4.3. PEM 505 A negative action notice should be sent when the client indicates a refusal to provide the verification or the time period provided has lapsed and the client has not made a reasonable effort to provide it.

In this case, the Department was unsure why the Claimant's FAP benefits closed effective December 31, 2008. The Department testified the closure was related to the semi-annual review and the Claimant's failure to bring in the requested verifications. Conversely, the Claimant testified that all requested documentation was timely submitted. Ultimately, it is found that the Department failed to meet its burden in establishing that the proper department policy was followed when it closed the Claimant's FAP case. Under these facts, the Department's actions are not upheld.

SER denial

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. The Department of Human Services' [formally known as the Family Independence Agency] policies are found in the State Emergency Relief Manual ("ERM").

State Emergency Relief ("SER") prevents serious harm to individuals and families by assisting applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101 The SER applicant must not have caused the emergency. *Id.* SER does not assist a group who failed to use their available money to prevent a shelter, energy or utility emergency. ERM 204 A client-caused emergency is when an SER group fails to pay requirement payments for the six-month period prior to the month of application. The SER payment must resolve the emergency. ERM 103; ERM 208 All countable earned and unearned income is used to determine the group's financial eligibility. ERM 206 Housing affordability is a condition of SER and applies only to Relocation Services and Home Ownership Services and Repairs. ERM 207 An SER application is denied if the group does not have sufficient income to meet the total housing obligation. ERM 207 Relocation services are authorized when a group receives a court summons, order, or judgment which will result in the group becoming homeless provided all other SER criteria are met. ERM 303 SER relocation services are approved only if the group's rental obligation is affordable as determined by ERM 207; ERM 303 The total co-payment is the amount the SER group must pay toward the emergency. ERM 208 Copayment amounts are deducted from the cost of resolving the emergency. ERM 208. Verification that the shortfall has been paid must be received before any SER payment is authorized. ERM 208

In the record presented, the Claimant sought \$1,186.00 to pay a possession judgment and avoid eviction. The SER application was denied because the total shortfall and co-payment

exceeded the SER need. In review of the budget, the Claimant's shortfall and co-payment (\$1,705.98) were more than the SER need (\$1,186.00) thus the Department properly denied the SER request. The Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's termination of the Claimant's FAP benefits is REVERSED.

The Department's denial of the SER application is AFFIRMED.

1. The Department's FAP determination is REVERSED.
2. The Department shall reinstate and recalculate the Claimant's FAP benefits from the date of closure and supplement the Claimant for any lost benefits she was entitled to receive if otherwise eligible and qualified in accordance with department policy.
3. The Department's SER denial is AFFIRMED.

/s/

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/24/09

Date Mailed: 06/24/09

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.

2009-12169/CMM

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cc:

