

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: 2009-25349
Issue No: 5016
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 16, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 held on July 16, 2009. The Claimant appeared and testified. Tanya Gillard appeared on behalf of the Department.

ISSUES

1. Whether the Department properly processed the Claimant's Food Assistance ("FAP") benefits?
2. Whether the Department properly calculated the Claimant's State Emergency Relief ("SER") 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 filed an application for FAP benefits on May 27, 2009. (Exhibit 1, pp. 1-2).
2. Claimant testified she waited in the DHS office and did eventually speak with someone (supervisor/manager) on May 27, 2009.
3. On June 1, 2009 the Department issued a Pending Application Notice to the client stating that an interview is required for the FAP application and was scheduled for June 11, 2009. (Exhibit 1, p. 2).
4. On June 11, 2009 Claimant attended the scheduled interview and FAP benefits were awarded.
5. On May 19, 2009 the Claimant filed an application for SER benefits requesting \$2331.52 for heat and \$47.56 for electric. (Exhibit 2. p. 2).
6. The Department prepared a budget on June 4, 2009 to determine whether Claimant was eligible for SER benefits. (Exhibit 2, pp. 1-2).
7. Claimant previously received SER benefits of \$350 for heat and \$224.87 for electric in the 2009 fiscal year. (Exhibit 3, p. 4).
8. The Department approved SER benefits for the May 19, 2009 application of \$47.56 for electric and \$200.00 for heat. (Exhibit 2. p. 5).
9. On June 8, 2009, the Department received the Claimant's Request for Hearing protesting the Department's actions on her SER and FAP applications.

CONCLUSIONS OF LAW

Food Assistance Program

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 regulations governing hearing and appeals for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code. MAC R 400.901-.951. MAC R 400.903 reads in part: An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a department action resulting in suspension, reduction, discontinuance, or termination of assistance.

In the present case Claimant applied for FAP on May 27, 2009. Claimant testified that she waited in the lobby for hours but did eventually she did speak with someone (supervisor/manager) on May 27, 2009. On June 1, 2009 the Department issued notice that an interview was required and was scheduled for June 11, 2009. On June 11, 2009 Claimant attended the scheduled interview and FAP benefits were awarded back to the date of application.

Claimant requested a hearing on June 8, 2009. The department, however, has not currently taken a negative action or failed to act in a timely manner regarding FAP benefits for the claimant. Claimant testified that the department has since provided benefits requested. Claimant complains of the professionalism of department personnel. However this Administrative Law Judge has no jurisdiction for such matters. Therefore, the issue relating to the FAP application is dismissed pursuant to MAC R 400.903(1). PAM 600.

State Emergency Relief

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, p. 1. Low-income households who meet eligibility requirements may receive assistance to help them meet their household heat and electric costs. ERM 301, p. 1. Payments are authorized when the group’s heating or electric service for their current residence is, or will be, shut off, or when payment is necessary to restore services. ERM 301, p.1. SER payments are not authorized unless the group’s required payments are made during the 30-day authorization period. ERM 301, p. 5. The SER program has yearly payment limits. The fiscal year cap for residential electric (not used for heat) is \$550. The fiscal year cap for natural gas and wood is \$550. ERM 301, at 7.

In this case, the Claimant filed a State Emergency Relief application seeking assistance for heat and utility services. Claimant previously received SER benefits of \$224.87 for electric and \$250 for heat in the 2009 fiscal year. The June 4, 2009 budget indicates that Claimant requested \$47.56 for electric and \$2331.52 for heat. The full amount of \$47.56 requested for electric was approved. However, only \$200 was approved for heat due to the prior SER payment of \$350 in the 2009 fiscal year and the fiscal year cap \$550.

Based upon the foregoing facts and relevant law, it is found that the Department’s determination of SER benefits is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department has awarded FAP benefits and Claimant is not suffering any loss of benefits. Accordingly, this hearing request is dismissed with prejudice.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's SER benefit. Accordingly, it is ORDERED that the Department's award of SER benefits is AFFIRMED.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/20/09

Date Mailed: 08/24/09

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 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.

JV/dj

cc:

