

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: 2009-6801
Issue No: 5032, 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 4, 2009
Macomb 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 received by the Department on December 4, 2008. After due notice, a telephone hearing was held on Monday, May 4, 2009. The Claimant appeared and testified. Evelyn Reed, FIS and Mrs. Monroe, JET specialist appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's 8/28/08 State Emergency Relief ("SER") application based upon the failure to produce an eviction notice and Claimant not being homeless.

Whether the Department properly calculated the Claimant's 10/08 Food Assistance ("FAP") benefits without shelter verification.

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 submitted an application for FAP and SER relocation funds on August 28, 2008. (Exhibit 1, p.18).
2. The Claimant testified that he was evicted by court action from his previous address for non payment of rent.
3. Claimant testified that he had a conversation with the Department in November of 2008 and turned in a copy of his summons/complaint and eviction notice shortly following this conversation. (Exhibit 1, pp. 27-28).
4. The Claimant testified that at the time of application, he had already been evicted and was living with his brother.
5. The Claimant was denied SER relocation funds on 8/28/08 due to not having an eviction notice and not being homeless. (Exhibit 1, p. 17).
6. The Department originally calculated Claimant's FAP benefits by budget dated 8/08. Claimant did not have any shelter costs at that time. (Exhibit 1, pp. 13-14).
7. Originally, shelter verification was requested and was due on 9/9/08. Claimant testified that he never received this shelter verification request.
8. Claimant began receiving unemployment compensation benefits on 9/19/08 and a second budget was calculated on 10/08 which included Claimant's unemployment benefits. (Exhibit 1, pp. 6-7).
9. Claimant began paying rent on 9/22/08. (Exhibit 1, p. 30) and proof of the rent payment was received by the Department on 11/18/08. Id.
10. The Department did not request shelter verification again prior to determining Claimant's FAP benefits under the 10/08 budget.
11. Shelter costs were not included in the second budget, (Exhibit 1, p. 6), and Claimant's FAP benefits were reduced to \$10.00/month. (Exhibit 1, p. 1).

12. On December 4, 2008, the Department received the Claimant's Request for Hearing protesting the denial of the SER application as well as the 10/08 FAP calculation.

CONCLUSIONS OF LAW

A. 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. MCL 400.7001-400.7049. The Department of Human Services' 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. SER funds for relocation are awarded if all requirements are met and either the SER group is homeless or a court summons, order, or judgment was issued which will result in the SER group becoming homeless. 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. ERM 303, pp. 1-2.

A group living with friends or relatives is not homeless, even if the arrangement is temporary unless one of the following situations exists:

- The group is living temporarily with other persons following a fire or natural disaster that occurred not more than 60 days before the date the group files an application for SER.
- The group is living with other persons to escape a domestic violence situation.
- The group meets eligibility criteria for one of the homeless assistance programs.

ERM 303, pp. 2-3.

In this case, with regards to SER benefits, the Claimant testified that he was living with his brother until 9/22/08. At the time of application, Claimant was not living in an emergency shelter or motel, in HUD funded transitional housing, living in a car or on the street. Furthermore, Claimant does not meet the requirements for one of the exceptions to not being homeless while living with a relative as Claimant does not have verification that he would have met the eligibility criteria for a homeless assistance program. Claimant, therefore, was not homeless at the time of his 8/28/08 application.

Claimant did have a judgment that was issued against him with an eviction date of 8/10/08. (Exhibit 1, p. 28). However, this did not result in Claimant becoming homeless as Claimant went to live with his brother. Since ERM 303 requires that the judgment result in Claimant becoming homeless, Claimant did not meet the requirements for SER relocation funds. Accordingly, the Department's decision to deny SER funds is Affirmed.

B. Food Assistance Benefits

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 administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the PAM, PEM, and PRM.

Clients must cooperate with the local office in determining initial and ongoing eligibility to include the completion of the necessary forms. PAM 105, p. 5. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. PAM 130, p. 1. A collateral contact is a direct contact with a person, organization of agency to verify information from the client. PAM 130, p. 2. When documentation is not available, or clarification is needed, collateral contact may be necessary. PAM 130, p. 2. The

client must obtain the required verification, however, the Department must assist if needed and/or requested. PAM 105, p. 10, PAM 130, p. 2. If neither the client nor the Department is able to obtain verification despite reasonable effort, the Department should use the best available information. PAM 130, p. 3. If no evidence is available, the Department should use its best judgment. PAM 130, p. 3. Clients are allowed 10 calendar days (or other time limit specified in policy) to provide the requested verifications. PAM 130, p. 4. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended no more than once. PAM 130, p. 4. 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.

Regarding the 10/08 reduction of FAP benefits, the Department only sought shelter verification for the first calculation in 8/08. Claimant also testified that he never received a DHS 3503 requesting shelter verification. Furthermore, the Claimant testified credibly that he provided shelter verification shortly after a conversation with the Department indicating that it was missing. Even after Claimant provided documentation from his landlord property management company, the Department still did not recalculate Claimant's FAP benefits to include a shelter expense. Accordingly, the Department's 10/08 FAP calculation is not upheld and FAP benefits should be recalculated to include the shelter expense.

DECISION AND ORDER

The Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that there was sufficient evidence to deny Claimant SER benefits based on the fact that Claimant was not homeless. Therefore, the Department's denial of Claimant's 8/28/08 SER application is affirmed.

Furthermore, the Administrative Law Judge, based upon the findings of fact and conclusions of law, finds that there was insufficient evidence presented to affirm the Department's actions regarding the 10/08 FAP calculation.

Accordingly, it is ORDERED:

1. The Department's 10/08 FAP eligibility determination is REVERSED.
2. The Department shall recalculate the Claimant's FAP allotment for 9/22/08 forward to include the Claimant's shelter expense and supplement the Claimant for any lost benefits he was otherwise eligible to receive in accordance with department policy.

/s/

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

Date Signed: 05/08/09

Date Mailed: 05/11/09

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:

