

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.: 2010-24182
Issue No.: 3002
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
April 5, 2010
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant's two hearing requests. After due notice, a telephone hearing was conducted from Detroit, Michigan, on April 5, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether DHS properly decreased Claimant's Food Assistance Program (FAP) benefits due to failure to cooperate in providing shelter verification in September, 2009?
2. Whether DHS properly decreased Claimant's FAP benefits due to failure to cooperate in providing shelter verification in January, 2010?
3. Whether DHS provided State Emergency Relief (SER) or other shelter assistance to Claimant in accordance with DHS policies and procedures in February, 2010?

FINDINGS OF FACT

The Administrative Law Judge, based on competent, material and substantial evidence in the record and on the entire record as a whole, finds as fact:

1. On or before June 1, 2009, Claimant received FAP benefits.
2. Claimant received \$200 per month in FAP benefits for six months, June-November, 2009.
3. On August 14, 2009, Claimant signed a lease for [REDACTED]. The rent was \$600 per month.
4. On August 25, 2009, Claimant's landlord faxed the lease and a DHS Shelter Verification Form to DHS. The Verification form stated that the rent was \$625 per month. The lease was altered on page 1 to state that the rent was \$625, while the \$600 amount appeared on page 7.
5. On September 24, 2009, DHS sent Claimant a Notice of Case Action, stating that her FAP benefits would be reduced to \$119 per month effective November 1, 2009, based on a change either in her shelter amount or her income. The Notice stated that Claimant's housing costs were \$0.00.
6. On October 7, 2009, Claimant filed a written request for a hearing with DHS.
7. On November 1, 2009, Claimant's FAP benefits remained at \$200 per month and were not reduced to \$119 per month.
8. In December, 2009, and January, 2010, Claimant received only \$200 for the two months combined.

9. On December 30, 2009, DHS sent Claimant a second Notice of Case Action closing her FAP benefits effective February 2, 2010, because she was no longer a student and was, therefore, ineligible.
10. On January 27, 2010, Claimant requested a second hearing by written notice to DHS.
11. On February 1, 2010, Claimant's benefits were terminated and reinstated in the amount of \$160 per month.
12. On or before February 24, 2010, DHS denied SER benefits to Claimant for relocation expenses without stating the reason.
13. On February 24, 2010, DHS paid a \$624 security deposit to Claimant's new landlord, Anthos Properties, for a residence at [REDACTED]. DHS made this payment out of its emergency funds which are reimbursable by the State of Michigan.
14. On March 1, 2010, Claimant's FAP benefits were increased to \$200 per month and have continued at that level.

CONCLUSIONS OF LAW

FAP was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3001-3015. DHS' FAP policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). These manuals are available online at www.mich.gov.

SER was established by law by the State of Michigan, 2004 Public Acts 344. SER is administered pursuant to MCL 400.10, *et seq.* and MACR 400.7001-400.7049. DHS' SER policies are found in the State Emergency Relief Manual (ERM). The SER manual can also be found online at www.mich.gov.

Looking first at BAM 105, this Item of the manual states that customers must cooperate with the local DHS office in determining initial and ongoing eligibility. This includes completing the necessary forms. Customers must take actions within their ability to obtain verification. The local DHS office must assist customers who ask for help in completing forms or gathering verification. Particular sensitivity must be shown to customers who are illiterate, disabled, or not fluent in English. DHS must allow the client ten calendar days (or other time limit specified in policy) to provide the requested verification. BAM 105, pp. 5, 8 and 10; BAM 115, p. 4.

If the client cannot provide verification despite a reasonable effort, DHS must extend the time limit at least once. DHS is to send a negative action notice when (1) the client indicates a refusal to provide a verification, or (2) the time period given has elapsed and the client has not made a reasonable effort to provide it. Only adequate notice is required for denial of an application. **If there is a discrepancy between the information from a third-party source and the information from the client, DHS must give the client a reasonable opportunity to resolve the discrepancy before determining eligibility.** BAM 130, pp. 5-6. (Bold print added for emphasis.)

DHS is required to send a timely notice of a negative action, such as a denial, at least eleven days before the intended negative action is scheduled to take effect. The negative action

is held in abeyance to provide the customer a chance to react to the proposed action. BAM 220, p. 4.

BAM 130, “Obtaining Verification – All TOA [Types of Assistance],” states:

Tell the client what verification is required, how to obtain it, and the due date...If neither the client nor you can obtain verification despite a reasonable effort, use the best available information. If **no** evidence is available, use your best judgment . BAM 130, pp. 2-3. (Bold print in original).

I conclude that DHS failed to give Claimant an opportunity to verify her rent amount and improperly issued a Notice of Case Action on September 24, 2009, decreasing her FAP from \$200 to \$119 per month. DHS received conflicting information from the landlord that the rent was either \$625 or \$600. DHS did not provide Claimant with an opportunity to clarify the conflicting information. Instead, DHS gave Claimant \$0.00 for housing costs when preparing the budget, resulting in a reduction in Claimant’s FAP benefits.

I conclude that, although Claimant’s FAP benefits remained at \$200 for the month of November, 2009, and were not reduced at that time, she received only one-half of her \$200 allotment in the subsequent two months of December, 2009, and January, 2010. I find that the difference of \$200 must be provided to Claimant as a supplementary payment in accordance with DHS policies and procedures.

Looking next at the second issue in this case, the termination of Claimant’s FAP benefits effective February 1, 2010, the Notice of Case Action states that the reason for this is because Claimant was no longer a student. DHS presented no evidence to support this alleged change in Claimant’s status. I determine that Claimant did not have a change in status warranting this termination. I conclude that Claimant is entitled to \$200 in FAP benefits for the month of February, 2010. As she did, in fact, receive \$160 in February, I conclude that the appropriate

supplement to Claimant for this period is \$40, to be remitted by DHS in accordance with DHS policies and procedures.

Looking next at the third issue in this case, whether Claimant was properly denied SER benefits, I find that Claimant made a reasonable effort to get the best information, and she provided what she obtained to DHS. Her January 27, 2010, hearing request states,

“I filed 3 to 4 different SER and she [the case worker] told me to get a letterhead where I’m moving in order for her to help me to move. Then she told me that she lost these paper (sic).”

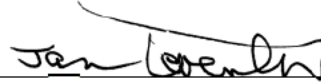
I find that Claimant cooperated and DHS failed to process her application appropriately. I also find, however, that, as DHS paid Claimant’s security deposit out of local discretionary funds, Claimant, as a practical matter, received the benefit she would have been entitled to under the SER program. I conclude that, while DHS erred in its handling of Claimant’s SER application, they met Claimant’s needs by other means that they had available. Accordingly, I conclude that Claimant suffered no injury as a result of DHS’ failure to process her SER application and the Department need not take further action regarding this.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that DHS is REVERSED. The Department is Ordered to make a supplementary payment to Claimant for partial FAP benefits for December, 2009, and January and February, 2010, which were unlawfully withheld. The Department is REVERSED with regard to its denial

of SER benefits to Claimant, but DHS owes no SER payment to Claimant, as it remedied the urgent situation with locally available funds.

All Department actions shall be executed in accordance with applicable law and policy.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 13, 2010

Date Mailed: April 14, 2010

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.

JL/pf

cc:

