

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.: 2010-24398
Issue No.: 3003/5006
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
May 13, 2010
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 May 13, 2010. Claimant appeared and testified. On behalf of Department of Human Services (DHS), Tovita Burks, Specialist, and Janine Parham, Manager, appeared and testified.

ISSUE

1. Whether DHS properly processed Claimant's 11/17/09 State Emergency Relief (SER) request for first month's rent and security deposit.
2. Whether DHS properly reduced Claimant's Food Assistance Program (FAP) benefits for 1/2010.

FINDINGS OF FACT

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

1. Claimant applied for SER assistance on 11/17/2009.

2. Claimant requested payment toward a \$650 first month's rent and a \$650 security deposit.
3. On 12/11/2009, DHS processed Claimant's SER request and mailed Claimant a SER Decision Notice (DHS-1419).
4. DHS approved Claimant for \$620 in SER assistance conditional upon Claimant making a \$680 payment toward her rent and security deposit by 12/17/09.
5. Claimant failed to make her required SER copayment by 12/17/09.
6. Claimant was an ongoing FAP recipient in 12/2009.
7. Claimant received \$442 in FAP benefits for 12/2009.
8. DHS reduced Claimant's FAP benefits to \$413 for 1/2010 due to a change in Unemployment Compensation (UC) income budgeted to household member [REDACTED].
9. Claimant submitted a hearing request on 2/18/10 regarding the SER decision and a reduction in FAP benefits.

CONCLUSIONS OF LAW

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. Department of Human Services (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

State Emergency Relief is a DHS program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills,

water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses, food, burials or migrant hospitalization.

Clients begin the SER process by submitting a SER application (DHS-1514). DHS has 10 days from the date of application submission to process SER requests. ERM 103 at 5. If verifications are needed, DHS mails the request for the verifications and clients are given eight days to return them. *Id.* Approvals for SER relief may be conditional upon the client making a copayment based on either excess income, excess assets or requesting an amount that exceeds the SER maximum payment.

Claimant's primary argument was that she was unable to pay a \$680 copayment toward her rent and security deposit and that DHS should have approved her for the \$1300 request. SER policy allows a maximum of \$620 to be paid for relocation/rent assistance. ERM 303 at 5. DHS approved Claimant for the maximum amount authorized by SER policy, subject to copayment by Claimant. There is no basis in policy for Claimant to receive an SER assistance amount exceeding \$620. It is found that Claimant received the maximum amount of assistance allowed by SER policy.

In the present case, DHS took approximately 24 days to process Claimant's request. The delay by DHS in processing Claimant's SER application could have affected Claimant's approval as clients have only thirty days from the date of SER application to make required copayments. ERM 208. If DHS policy is followed, a client would have at least 20 days (the thirty days following a SER application not including the first ten days to allow for the DHS standard of promptness) to make a required copayment. Claimant was only given approximately six days due to the delay by DHS in processing Claimant's application.

Though Claimant could have been harmed by the DHS delay, the evidence did not support that Claimant was so harmed. Claimant was unable to establish that she was willing or capable of making the required \$680 copayment in 12/2009. Claimant was more concerned that she had to make any copayment. It is found that though DHS exceeded their standard of promptness in processing Claimant's SER request, Claimant was not harmed by the delay. As discussed during the hearing, Claimant may reapply for SER assistance at any time.

Food Assistance Program

The Food Assistance Program (formerly known as the Food Stamp 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant disputed her FAP benefit amount for 1/2010 and 2/2010. In 12/2009 Claimant received \$442/month in FAP benefits. In 1/2010 and 2/2010, Claimant's FAP benefits were reduced to \$413/month.

DHS submitted FAP budgets for 12/2009 and 1/2010. The only change in the budgets was the amount of unearned income used to calculate the FAP benefits. DHS calculated the household income in 12/2009 as \$409. The income budgeted for 1/2010 was \$507.

Claimant could not understand how her FAP benefits could be reduced if there was not a change in income. Claimant appears to be correct as the UC for Mr. Thomas appears to indicate a stable weekly rate of \$118/week (not counting a non-budgetable \$25/week issued by the

American Recovery and Reinvestment Act). Without a change in income, there would not appear to be a need to change FAP benefits.

Claimant's 1/2010 FAP benefits appears to be correct. DHS converts weekly income into a full month of income by multiplying the weekly income by 4.3. BEM 505. The \$118/week of UC income when multiplied by 4.3 results in a monthly FAP budget income of \$507; this is the amount of income DHS used to calculate Claimant's 1/2010 FAP benefits.

The undersigned cannot explain why Claimant's income was budgeted for a lesser amount in 12/2009 except DHS error; however, the error appeared to give Claimant more FAP benefits in 12/2009 to which she was entitled. Though Claimant appears to have received an excess of FAP benefits prior to 1/2010, Claimant cannot continue to receive benefits based on the error. It is found that DHS properly reduced Claimant's FAP benefits in 1/2010.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds:

1. DHS properly processed Claimant's 11/17/09 SER request; and
2. DHS properly reduced Claimant's FAP benefits for 1/2010.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 6/3/2010

Date Mailed: 6/3/2010

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 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.

CG, [REDACTED]

cc:

[REDACTED]