

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201041871; 2010192
Issue No.: 3015; 5016
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 4, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 August 4, 2010. The Claimant appeared and testified. [REDACTED], FIM and [REDACTED], FIS appeared on behalf of the Department.

ISSUE

Did the Department properly determine Claimant's Food Assistance Program and State Emergency Relief eligibility?

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 benefits in June 2009.
- (2) Claimant was an ongoing recipient of Food Assistance.
- (3) Claimant's Food Assistance Program benefits closed on July 1, 2010 due to excess income.
- (4) Claimant's application for State Emergency Relief was denied on June 8, 2009 due to the payment not resolving the emergency.
- (5) Claimant had outstanding utility bills totaling \$8079 in June 2009.

- (6) Claimant has gross unearned income of \$469 from child support.
- (7) Claimant has gross unearned income of \$586 from social security benefits for herself.
- (8) The Department incorrectly included state retained collections of child support in Claimant's FAP budget.
- (9) Claimant requested a hearing on June 28, 2010 contesting the closure of FAP benefits.
- (10) Claimant requested a hearing on June 23, 2009 contesting the denial of SER benefits.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM").

Bridges excludes collections retained by DHS (certified support) and court-ordered support payments the group receives after the child support certification effective date. BEM 503.

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.

When the group's heating or electric service for their current residence is in threat of or is already off and service must be restored, payment may be authorized to the provider up to the fiscal year cap. Payment must resolve the emergency by restoring or continuing the service for at least 30 days. ERM 301

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With regard to SER, Claimant had outstanding utility bills of \$1211 for non-heat electricity and \$6861.61 for heating fuel. The maximum benefit for those utilities was \$550. Payment of \$550 would not have prevented shut off or allowed for utilities to be reinstated. The Department was correct to deny State Emergency Relief because payment would not have resolved the emergency. ERM 301. Claimant asserted that any payment would have restored service but presented no evidence to support this claim.


In the present case with regard to Food Assistance benefits, the Department incorrectly attributed state retained collections of child support to the Claimant. BEM 503. Claimant did not receive any monies from those collections. Therefore, the Department's determination of Claimant's ineligibility for FAP benefits is incorrect.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly denied the Claimant's SER application, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, further finds that the Department improperly closed the Claimant's FAP benefits, and it is ORDERED that the Department's decision in this regard be and is hereby REVERSED. Claimant's FAP benefits shall be reinstated and rebudgeted back to the date of closure removing state retained collections of child support from the budget. Any increase in benefits shall be paid to Claimant in the form of a supplement.

/s/



Aaron McClintic
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 13, 2010

Date Mailed: August 13, 2010

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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.

AM/hw

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