

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: 201054981
Issue No: 5032, 3002
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 21, 2010
Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on September 10, 2010. After due notice, a telephone hearing was held on Thursday, October 21, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) and State Emergency Relief (SER) 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. The Claimant applied for SER assistance for rent on August 30, 2010.
2. The Claimant receives a monthly pension in the gross monthly amount of \$ [REDACTED]
3. The Claimant receives monthly self-employment income in the gross monthly amount of \$ [REDACTED]
4. The Claimant has monthly shelter expenses of \$ [REDACTED]
5. On September 18, 2010, the Department determined that the Claimant was eligible for a monthly FAP allotment of \$ [REDACTED] effective October 1, 2010.

6. The Department received the Claimant's request for a hearing on September 10, 2010, protesting the denial of her SER application and the reduction of her FAP allotment.

CONCLUSIONS OF LAW

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. Family Independence Agency (FIA or agency) policies are found in the State Emergency Relief Manual (SER).

State Emergency Relief (SER) assists individuals and families by providing money for rent, security deposits, and moving expenses. ERM 303. Benefits may be approved under the SER program for any combination of the following services:

- First month's rent.
- Rent arrearage.
- Mobile home lot rent for owners or purchasers is a Home ownership service found in ERM 304.
- Mobile home lot rent for renters is a relocation service covered by this Item.
- Security deposit (if required).
- Moving expenses (to relocate household effects). ERM 303.

A requirement for SER housing benefits is a verified court summons, order, or judgment, which will result in the SER group becoming homeless. ERM 303.

The Claimant applied for SER assistance for rent on August 30, 2010. The Department denied the SER application with respect to the Claimant's rent payments because the Claimant was unable to provide verification of an eviction order.

The Department has established that it properly denied the Claimant's SER application order because there was no verified eviction order.

The Food Assistance Program (FAP) (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 (DHS or Department), 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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

The Claimant received FAP benefits as a group of one. The Claimant receives a monthly pension in the gross monthly amount of \$ [REDACTED]. The Claimant receives monthly self-employment income in the gross monthly amount of \$ [REDACTED]. The Claimant's total income is the sum of these two incomes. The Claimant's adjusted gross income of \$ [REDACTED] is determined by subtracting a 20% earned income from the Claimant's self-employment income and a \$ [REDACTED] standard deduction from the total income. The Claimant's excess shelter amount of \$ [REDACTED] is determined by adding her \$ [REDACTED] monthly shelter expense to the \$ [REDACTED] heat and utility deduction under the Low Income Home Energy Assistance Program, and subtracting half of her adjusted gross income. Since the Claimant's excess shelter amount is greater than the shelter maximum, the Claimant is entitled to an excess shelter deduction of \$ [REDACTED].

The Claimant's net income of \$ [REDACTED] is determined by subtracting the excess shelter maximum from her adjusted gross income. A claimant with a group size of one and a net income of \$ [REDACTED] is entitled to a FAP allotment of \$ [REDACTED] which is the amount of FAP benefits granted to the Claimant for this period. RFT 260. I find that the Department has established that it acted in accordance with policy determining Claimant's FAP allotment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's SER and FAP eligibility.

The Department's SER and FAP eligibility determination is AFFIRMED. It is SO ORDERED.

____/s/

Kevin

Scully
Administrative Law Judge
for Duane Berger, Director
Department of Human Services

Date Signed: January 14, 2011

Date Mailed: January 19, 2011

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.

KS/alc

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