

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: 2010-8392
Issue No: 1018, 3020, 5012,
5017, 5018
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 26, 2010
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on January 26, 2010. Claimant personally appeared and testified.

ISSUE

1. Did the department correctly determine that the claimant had excess income for Family Independence Program (FIP)?
2. Is the claimant entitled to a hearing on possible future Food Assistance Program (FAP) overissuance?
3. Did the department correctly determine that the claimant was not eligible for State Emergency Relief (SER) for assistance with her mortgage payments and home repairs?

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 FIP benefits on May 28, 2009 and was denied for such benefits due to having excess assets from a lump sum Long Term Disability (LTD) payment, which was to cover the period of time from April 30, 2009 through August 13, 2009.

(Department's Exhibit 1).

2. On June 29, 2009 claimant also applied for SER for help with back mortgage payments, a hot water heater and a furnace. Claimant's SER request was denied due to her housing being unaffordable, but should have been denied because she was not in foreclosure status. Claimant's request for the water heater and furnace repair should have also been denied as she was behind on mortgage payments. (Department's Hearing Summary).

3. Claimant filed two hearing requests, on July 29 and August 6, 2009, citing objections to FIP, SER and FAP determinations.

4. Claimant reported having a new baby on June 16, 2009, and the child was added to her FAP case effective July, 2009. Claimant further reported that her fiancée whom she subsequently married had moved in with her on August 11, 2009. New husband was added to claimant's FAP case effective September, 2009. FAP supplements for the new baby and husband were completed by the department.

5. On November 2, 2009 a new FIP determination was completed after the department concluded that claimant's LTD payment should have been counted as income to cover specified months, not as an asset. (Department's Exhibit 2).

6. Department completed the FIP budget by dividing the LTD lump sum of \$8,183 by 5 months it covered, for a monthly income of \$1,636.60. Claimant's income exceeded the FIP payment standard for a family of 3 of \$492. (Department's Exhibits 3 and 4).

7. Corrected notice of FIP denial due to excess income was sent to the claimant on November 2, 2009.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 (DHS or department) policies are found in the State Emergency Relief Manual (ERM).

First issue in this case is department's determination that claimant had excess income for FIP benefits. It is not in dispute that claimant received \$8,183 in March, 2009 for LTD benefits while she was off work, and that the letter from LTD company clearly states this amount is to cover April 30, 2009 through August 13, 2009. Department at first counted this amount as assets. FIP asset limit is \$3,000, and claimant clearly was over the asset limit. BEM 400.

Department subsequently determined that claimant's LTD benefits should have been divided by the number of months they were covering and then counted as income for each month.

Departmental policy states:

Contractual/Single Payment Income

For income received in one month intended to cover several months, establish a standard monthly amount by dividing the income by the number of months it covers. Consider this amount available during each month covered by the income. BEM 505.

Department determined that the claimant's monthly income from LTD benefits was \$1,636.60. Departmental policy further states:

FIP and SDA Only

Financial need must exist to receive benefits. Financial need exists when the eligible group passes both the "**Deficit Test**" and the "**Child Support Income Test**". To perform the deficit test, subtract the **program group's** budgetable income from the **eligible group's** Payment Standard (PEM, Item 515) for the benefit month. To meet the Child Support Income Test, the FIP group's countable income plus the amount of certified support (or amount of support to be certified) must be less than the eligible group's payment standard. BEM, Item 518, p. 1.

FINANCIAL NEED

FIP and SDA Only

Financial need exists if:

- . there is at least a \$1 deficit after income is budgeted, **and**
- . the group passes the Child Support Income Test.

Exception: A child support income test is not required for SDA groups. BEM, Item 518, p. 2.

If the group fails either test, the group is ineligible for assistance. Deny the application or close the case for the benefit month unless the group meets the conditions for Temporary Ineligibility of Extended FIP.

At application, if the group is ineligible due to excess income but a change is expected for the next benefit month, process the second month's benefit determination. If eligible, do not deny the application. BEM, Item 518, p. 2.

Claimant applied for FIP in May, 2009, and would not have been eligible due to excess income through August, 2009. Department therefore properly determined that the claimant had excess income for the FIP, once previous determination based on excess assets was corrected. While the previous determination (excess assets) was incorrect, claimant would have not been eligible either way, and therefore is not due any FIP benefits due to erroneous consideration of assets.

Secondly, claimant is objecting to department's denial of her SER application. Claimant was denied assistance with her past due mortgage payments as she was not in foreclosure states. Department's policy, copies of which were provided for the hearing and for claimant's review, clearly requires that home ownership services payments only be issued to save a home threatened with loss due to a mortgage foreclosure. ERM 304, p. 1. Claimant does not dispute that her home was not in foreclosure. Claimant however is of the opinion that the department should have paid for her furnace repair and hot water heater. Department's policy states that [REDACTED] payments can be considered if the home is not in jeopardy of loss. Department is to deny repairs if there is a house payment or property tax arrearage, unless a workable plan exists for paying the arrearage, and this only applies to home repairs. ERM 304, p. 3. Claimant contends that department was wrong in not informing her that she could have a "workable plan" to pay mortgage arrearage, and that she was only told to request a hearing which took 6 months to occur.

The process of applying for assistance consists of clients completing an application and informing the department of their circumstances. Department's caseworkers then determine eligibility for any of the department's programs based on reported circumstances. Departmental policy does not require or allow caseworkers to give personal financial advice to clients, to tell them how they should handle and/or pay their financial obligations, or to advise how a client can adjust their circumstances in order to become eligible for assistance. To do otherwise would be an intrusion on clients' personal life and personal business. Claimant was aware that her mortgage payments were in arrearage and that she would have had to make some arrangements with her mortgage company to prevent foreclosure. Such arrangements cannot be made with any other entity or by department's caseworkers. Department correctly determined that the claimant was not eligible for SER services based on the circumstances she reported.

Lastly, claimant brought up a possible FAP overissuance. Claimant has not received a notice from the department requesting she pay any such overissuance. An opportunity for a hearing shall be granted to an applicant who requests a hearing because their claim for assistance is denied, or to any recipient who is aggrieved by any department action resulting in suspension, reduction, discontinuance, or termination of assistance. Michigan Administrative Code Rule 400.903(1). Claimant was advised that she may request a hearing upon receipt of any future notices from the department she disagrees with. Claimant asked if she would have to wait for a hearing for another 6 months on such issue. This Administrative Law Judge responded that with several thousand hearing requests this office receives per month, and with a possibility of future lay-off days for state employees due to state's financial crisis, it may indeed take that or possibly longer to hold future hearing, unless such a hearing request falls into a category of cases that must be heard within a shorter time limits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined claimant had excess income for the FIP benefits, and that she was not eligible for SER assistance. Claimant is also not entitled to a hearing on possible future FAP overissuance, as she must receive a notice of such action and then request a hearing if not in agreement with it.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 19, 2010

Date Mailed: April 19, 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.

cc:

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