

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.: 201012858

Issue No.: 5016, 3014

Case No.:

Load No.:

Hearing Date:

May 6, 2010

Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 May 6, 2010. The Claimant was represented by [REDACTED], Claimant's son and Durable Power of Attorney. [REDACTED], FIM and [REDACTED], FIS appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's State Emergency Relief ("SER") and Food Assistance Program ("FAP") benefits effective 5/4/09.

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 filed an application for SER, SDA and FAP benefits on 5/4/09. (Exhibit 1, pp. 8-27).

2. The notes attached to the application indicate that Claimant and her son, who lives in the household, eat together. (Exhibit 1, p. 23).
3. The Department prepared a SDA budget on 5/4/09 using only Claimant's RSDI income and found that the Claimant was over income for SDA benefits. (Exhibit 1, p. 30). SDA benefits were denied due to excess income. (Exhibit 1, p. 29).
4. The Claimant agreed with the Department's decision regarding SDA benefits at the hearing.
5. Claimant's representative testified at the hearing that his brother has his own income and has a refrigerator and microwave in his bedroom. Claimant's representative also stated that he had never seen the refrigerator, but assumed it was there because the brother would come downstairs with bottles of pop and food wrappers.
6. Claimant's representative testified that his brother might eat meals that were prepared by the Claimant's caretaker and might take food from the main refrigerator.
7. On May 4, 2009, the Department denied SER and FAP benefits due to excess income for a group size of two. (Exhibit 1, pp. 32-37).
8. On May 19, 2009, the Department received the Claimant's Request for Hearing protesting the denial of the SER application.

CONCLUSIONS OF LAW

A. FAP

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 Program Administrative Manual (“PAM”)/Bridges Administrative Manual (“BAM”), the Program Eligibility Manual (“PEM”)/Bridges Eligibility Manual (“BEM”), and the Reference Tables (“RFT”).

FAP benefits are paid based on an individual’s family group. The relationship of the people who live together affects whether they must be included or excluded from the group. People included in the group include spouses and children (natural, step and adopted) who purchase and prepare food together. Parents and their children under 22 years of age who live together must be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. BEM/PEM 212, p. 1. The relationship(s) of the people who live together affects whether they must be included or excluded from the group. In order to determine a group composition, the Department must first determine if the individual must be included in the group. If they are not mandatory group members, the Department must determine if the individuals purchase and prepare food together or separately. BEM/PEM 212, p. 1. Persons customarily share food in common if:

- They each contribute to the purchase of food.
- They share the preparation of food, regardless of who paid for it.
- They eat from the same food supply, regardless of who paid for it.
- In general, persons who live together and purchase and prepare food together are members of the FAP group.

The federal regulations define household income to include all earned and unearned income. 7 CFR 273.9(b). All monthly income must be converted to a nonfluctuating monthly amount. A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM/PEM 550.

In the subject case, the evidence reveals that all household members eat from the same food supply. The initial application and notes indicate that both Claimant and her adult son eat together. At the hearing, Claimant's representative indicated that his brother bought and prepared his own meals. Yet Claimant's representative had never actually seen a refrigerator in his brother's room and could not deny that the brother ate what was prepared by Claimant's caretaker or used food from the main kitchen.

The Administrative Law Judge finds that Claimant and her adult son are properly in the same FAP group. Accordingly, both incomes were properly used in the FAP calculation. In the present case, according to the aforementioned policy on budgeting, for the 11/1/09 budget, Claimant's group had a monthly gross income of \$3,828.00. As a result, Claimant's group income is over the maximum income limits of \$2,334.00 per month for a group size of two (2) people. RFT 250. Therefore, Claimant does not qualify for FAP benefits. Accordingly, based upon the foregoing facts and relevant law, it is found that the Department's FAP denial is AFFIRMED.

B. SER

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 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. The standard of promptness for a SER application is 10 days beginning with the date of application. ERM 103, p. 4. Low-income households who

meet eligibility requirements may receive assistance to help them meet their household heat and electric costs. ERM 301, p. 1. Payments are authorized when the group's heating or electric service for their current residence is, or will be, shut off, or when payment is necessary to restore services. ERM 301, p.1. SER payments are not authorized unless the group's required payments are made during the 30-day authorization period. ERM 301, p. 5.

A single SER group consists of persons who occupy the same home. Home means the place where the members of the SER group keep their personal belongings and sleep. A home may be an apartment, a house, a mobile home, or a rented room. ERM 201, p. 1. A group is eligible for SER with respect to income if the total combined monthly net income that is received or expected to be received by all members of the group in the 30-day countable income period is not more than the monthly basic income need standard for the number of members in the SER group. ERM 208 at p. 5. There are no income copayments for SER energy services. With respect to income, clients are either eligible or they are not. For a group to be eligible for energy services, the combined monthly net income that is received or expected to be received by all members of the group in the 30-day countable income period cannot exceed the monthly income need standard for SER energy/LIHEAP services for the number of members in the group. If the income exceeds the limit, the request must be denied. ERM 208, p. 1.

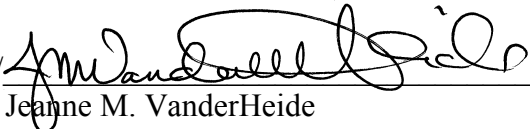
In this case, the Claimant filed a State Emergency Relief application seeking assistance for a utility service bill. The evidence indicates that Claimant's group of two had total net income of \$3828.00. The standard need for a group of two is \$500.00 and Claimant is over the income limit. Therefore, Claimant did not qualify for SER assistance.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department properly calculated the Claimant's FAP and SER eligibility.

Accordingly, the Department's denial of SER and FAP benefits effective 5/4/09 is AFFIRMED.

/s/ 
Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 21, 2010

Date Mailed: May 21, 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.

JV/hw

cc:

