

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: 2010-14670

Issue No: 3002, 5022

Case No:

Load No:

Hearing Date:

February 24, 2010

Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from [REDACTED] on February 24, 2010.

ISSUE

Whether the Department properly determined Claimant's Food Assistance Program (FAP) and State Emergency Relief (SER) eligibility?

FINDINGS OF FACT

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

(1) Claimant is a FAP recipient.

(2) On November 17, 2009, "[REDACTED]", a friend of [REDACTED]

(Claimant's mother), called the Department stating that Claimant and his girlfriend, [REDACTED]

[REDACTED] had moved out of the home at [REDACTED]. The Department,

in turn, removed Claimant's two sons from his FAP case and placed them on Ms. Cunningham's case. (Hearing Summary and Exhibit 2)

(3) On November 17, 2009, the Department mailed Claimant a Notice of Case Action which explained that Claimant's monthly FAP allotment would be reduced to [REDACTED] effective December 1, 2009. (Exhibit 1)

(4) On November 24, 2009, Claimant filed an application for SER benefits including a request for assistance in the amount of [REDACTED] for water/sewer or cooking gas and [REDACTED] for taxes. (Exhibit 9)

(5) On December 2, 2009, the Department denied Claimant's SER application because it had been informed that he no longer lived at [REDACTED] (Exhibit 4)

(6) On December 22, 2009, the Department spoke with Claimant who informed the Department that he had never moved out of [REDACTED] [REDACTED]. Based on this information, the Department made the decision that Claimant's sons needed to be added back to his FAP case after they were removed from his mother's case which would be February 2010. The Department informed Claimant that his SER application would still be denied because the delinquent taxes totaled more than [REDACTED]. (Hearing Summary and Exhibit 6)

(7) On December 8, 2009, the Department received the Claimant's hearing request. (Exhibit 3)

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (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 or department), 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 Bridges Reference Manual (BRM).

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 (SER).

In the instant case, the Department removed Claimant's sons from his FAP case and denied his SER application based on information provided by a 3rd party and without speaking with Claimant. After speaking with Claimant, the Department was satisfied that the information it acted upon was incorrect. The result was that Claimant received a reduced amount of FAP benefits in at least December 2009 and January 2010. In addition, his SER application was also denied on this incorrect information.

With the above said, based on the testimony and documentation offered at and after hearing, I do not find that the Department established that it acted in accordance with policy in determining Claimant's FAP or SER eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in determining Claimant's FAP or SER eligibility.

Accordingly, the Department's FAP and SER eligibility determination(s) are REVERSED, it is SO ORDERED. The Department shall:

- (1) Reinstatement Claimant's FAP benefits retroactive to the closure date.
- (2) Issue Claimant supplemental benefits he is entitled to, if any.
- (3) Process Claimant's SER application and determine Claimant's eligibility for SER benefits with an application date of November 24, 2009.
- (4) Notify Claimant in writing of the Department's revised determination(s).
- (5) Claimant retains the right to request a hearing(s) if he would like to contest the Department's revised determination(s).

_____/s/_____
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 23, 2010

Date Mailed: March 23, 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 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.

2010-14670/smb

SMB/db

cc:

