

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.: 201017994
Issue No.: 3003/5013
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 15, 2010
Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 July 15, 2010. The claimant appeared and testified. [REDACTED], FIM and [REDACTED] ES, appeared on behalf of the Department.

ISSUE

Whether the Department properly calculated the Claimant's Food Assistance Program ("FAP") benefits for July 2010 and whether the Department properly denied the Claimant's application for State Emergency Relief ("SER").

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 FAP and SER and is currently receiving FAP in the amount of \$48 per month (July).
- 2) The Claimant's current rent is \$450 per month and she does not pay for heat separately.
- 3) At the hearing the Department did not have the Claimant's file and only had printouts of the Claimant's FAP budget which was not submitted with the hearing summary.
- 4) The Department calculated the Claimant's FAP for the period of 2/1/10 through 2/28/10 and determined her benefits should be \$78 per month.

- 5) The claimant has had 5 workers assigned to her since applying for benefits and her current caseworker did not attend the hearing as she was on annual leave.
- 6) The Claimant submitted the original of her SER application on 1/12/10 with a Judgment of eviction.
- 7) The Claimant provided an application for SER on January 12, 2010 which application was denied on March 6, 2010 because the emergency no longer existed.
- 8) In July the Claimant's FAP benefits were reduced to \$48 per month because the department did not include a shelter allowance in the Claimant's budget.
- 9) The Claimant provided proof of shelter verification in June 2010.
- 10) The Department is required to recalculate the July FAP benefits and is to include a Shelter expense for rent of \$450 and to issue a supplement for FAP benefits the Claimant is otherwise entitled to receive.
- 11) The Claimant's unemployment benefits ended in July 2010 so the Claimant has no unearned or earned income.
- 12) The FAP budget for August 2010 accurately reflects that the Claimant has no income and that her rent is \$450 and is entitled to receive \$200 per month in FAP benefits.
- 13) At the hearing, the Department agreed to recalculate the claimant's FAP benefits for the month of July 2010 and to include in the budget a shelter expense of \$450 and no unearned income due to unemployment benefits. The Department further agreed to supplement the Claimant retroactively for FAP benefits for the month of July for FAP benefits the Claimant was otherwise entitled to receive.
- 14) The Department also agreed to reinstate the Claimant's SER application retroactive to January 12, 2010. The Department also agreed to recalculate the Claimant's SER budget as of January 12, 2010 and to include any unemployment income she was receiving at the time, and to indicate that the security deposit required was \$450 and that the Claimant has paid \$450 towards the first month's rent.
- 15) The Claimant further agreed to provide the Department a written verification statement from her current landlord which verifies that the

security deposit for the Claimant's current apartment in the amount of \$450 has not been paid. The Claimant is also to provide the Department with a copy of the the judgment of eviction, the original of which she had attached to her SER application when filed.

- 16) As a result of this agreement, Claimant indicated that she no longer wished to proceed with the remainder of the hearing.

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) 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).

Under Bridges Administrative Manual Item 600, clients have the right to contest any agency decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The agency provides an Administrative Hearing to review the decision and determine if it is appropriate. Agency policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the agency receives a hearing request and continues through the day of the hearing.

In the present case the Department has agreed to recalculate the Claimant's FAP benefits for the month of July 2010 and to issue retroactive supplement for FAP benefits the Claimant was otherwise entitled to receive. The Department also agreed to reinstate the Claimant's SER application and to rerun the SER budget to determine the Claimant's eligibility for a security deposit advance and to prepare the budget as of January 12, 2010. As a result of this agreement, Claimant indicated she no longer wished to proceed with the hearing.

Since the Claimant and the Department have come to an agreement it is unnecessary for this Administrative Law Judge to make a decision regarding the facts and issues in this case.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds that the Department and Claimant have come to a settlement regarding claimant's request for a hearing.

Accordingly it is ORDERED

1. The Department shall recalculate the claimant's FAP benefits for the month of July 2010 and to include in the budget a shelter expense of \$450 and no unearned income due to unemployment benefits. The Department further agreed to supplement the Claimant retroactively for FAP benefits for the month of July for FAP benefits the Claimant was otherwise entitled to receive.
2. The Department shall reinstate the Claimant's SER application as of January 12, 2010. The Department shall recalculate the Claimant's SER budget as of January 12, 2010 and include any unemployment income she was receiving at the time, and to indicate that the security deposit required was \$450 and that the Claimant has paid \$450 towards the first month's rent.
3. If the Claimant is deemed eligible the Department shall issue a SER supplement to the Claimant for any SER benefits she was entitled to receive.
4. The Claimant further agreed to provide the Department a written verification statement from her current landlord which verifies that the security deposit for the Claimant's current apartment has not been paid. As the Claimant's landlord is currently out of town, the Claimant shall have 15 days to provide the information but shall do so as soon as it is available. The Claimant is also to provide the Department with a copy of the the judgment of eviction, the original of which she had attached to her SER application when filed.



Lynn M. Ferris
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/15/2010

Date Mailed: 07/15/2010

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 of the rehearing decision.

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