

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: 2010-23109
Issue No: 5006; 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 11, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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, an in-person hearing was held on Tuesday, May 11, 2010. The claimant personally appeared and testified on her own behalf.

ISSUES

- (1) Did the department properly deny the claimant's State Emergency Relief (SER) application because the claimant did not pay her required co-pay?
- (2) Did the department properly determine that the claimant's Food Assistance Program (FAP) benefits should be lowered because there was unreported income in the household verified by a SER application?

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 was a recipient of FAP benefits.

(2) On December 29, 2009, the department caseworker received a SER application on behalf of the claimant requesting assistance with a water shutoff from the [REDACTED].
(Department Exhibits 11-16, 2, and 10)

(3) The claimant provided a check stub of her earned income for one of the household members in her family dated February 21, 2009 in the amount of [REDACTED] and January 15, 2010 in the amount of [REDACTED]. (Department Exhibit 3-4)

(4) The department caseworker using Bridges verified that the claimant received [REDACTED] a week in unemployment benefits. (Department Exhibit 5-7)

(5) On January 21, 2010, the department caseworker calculated the claimant's eligibility for SER with an earned income of [REDACTED] with mandatory taxes and deduction of [REDACTED] with a remaining earned income of [REDACTED]. The claimant also had an unemployment income of [REDACTED]. The claimant's household's net countable income was [REDACTED] minus the income need standard of [REDACTED] resulting in an initial income co-payment of [REDACTED] which made the claimant ineligible for SER benefits. (Department Exhibit A-B)

(6) On January 21, 2010, the department caseworker sent the claimant a denial notice that the claimant's income/asset co-payment was equal to or greater than the amount needed to resolve the emergency. (Department Exhibit 1)

(7) As a result of the claimant's SER application, the department caseworker was required to update the claimant's FAP case based on the eligibility verification provided.

(8) On January 21, 2010, the department caseworker sent the claimant a notice that her FAP case was closed because her gross income exceeded the income limit. (Department Exhibit 17-20)

(9) On January 26, 2010, the department received a hearing request from the claimant, contesting the department's negative action.

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. 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 (SER).

The department manuals provide the following relevant policy statements and instructions for caseworkers:

DEPARTMENT POLICY

State Emergency Relief (SER) prevents serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM, Item 101, p. 1.

Requirements

Residence in the State of Michigan is not required. SER serves all persons physically present in Michigan. In addition, SER applicants must:

- . Complete the application process
- . Meet financial and non-financial requirements
- . Have an emergency which threatens health or safety and can be resolved through issuance of SER
- . Take action within their ability to help themselves, i.e., obtain potential resources and/or apply for assistance
- . Not have caused the emergency (ERM, 204, Client-Caused Emergency)
- . Cooperate in providing information about income, assets, living arrangements, and other persons living in the home

Deny SER services for applicants who fail to meet any of the above requirements. ERM, Item 101, p. 1.

DEPARTMENT POLICY

Right to Apply

SER applicants can file or obtain an application until 5:00 p.m. each business day. Accept and register an SER application if the following information is provided:

- . Applicant name
- . Address or statement of homelessness
- . Birth date
- . Applicant or Authorized Representative signature. ERM, Item 102, p. 1.

ELIGIBILITY DETERMINATION

LOA2 State Emergency Relief Budget

Complete an LOA2 SER budget for each request/application. Use it to calculate payment maximums, required payments, income and asset eligibility, etc. and to certify eligibility or ineligibility. ERM, Item 103, p. 2.

DHS-1419, Decision Notice

Inform all SER applicants in writing of the decision made on their application. Mail or give the DHS-1419, Decision Notice, to the applicant.

If the SER group meets all eligibility criteria but has an income or asset co-payment or shortfall or contribution, SER eligibility may be approved on SIMS, but do not issue payment until the client provides proof that the shortfall or contribution, and/or co-payment has been made.

Verification of payment must be made within the 30-day authorization period or no SER payment will be made and the client will have to reapply.

If the co-payment, shortfall, contribution or combination exceeds the need, the application can be denied. ERM, Item 103, p. 3.

APPLICATION PROCESS

Active Applicants

Specialists may choose to waive in-person interviews for applicants who are:

- . active for another program, **and**
- . have a current DHS-1171, Assistance Application, or DHS-4574, Medicaid Application, on file.

Give or send active SER applicants the following information:

- . DHS-1514, SER Application
- . DHS-3503, Verification Checklist
- . DHS-1419, Decision Notice

Note: Obtain all supporting verifications and applicant signatures. A witnessed signature is not necessary for mail-in or faxed applications. ERM, Item 103, p. 3.

Standard of Promptness

Give priority to SER applicants when there is a direct threat to health or safety requiring immediate attention.

The SER standard of promptness is 10 calendar days, beginning with the day the signed SER application is received in the local office.

- Do not use the standard of promptness as a basis for denial of SER applications.
- Continue to pend an application if the SER group is cooperating within their ability to provide verifications.
- Deny the application if the group does not cooperate.

Note: There is no standard of promptness adjustment for holidays, weekend or non-business days. The case record must include documentation of the reason for any delay in processing the application beyond the standard of promptness. ERM, Item 103, p. 4.

GROUP COMPOSITION

DEPARTMENTAL POLICY

Determine SER eligibility for the group as a whole. SER groups are the basic unit of SER eligibility. Verify income, assets and potential resources of all group members.

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. Consider a homeless family or group of individuals a single SER group if they previously lived together in the same home and plan to do so again when they find permanent housing. ERM, Item 201, p. 1.

Included Group Members

Adults and children (under age 21) who normally live together are in the same SER group.

Persons temporarily absent due to illness or employment are also in the same group. For SER burials, the deceased person is an included group member; 18-21 year old children are not.

Note: Group members who are absent from the home for 90 consecutive days or more are not in the SER group.

Note: All members must be registered in ASSIST. ERM, Item 201, p. 1.

Excluded Group Members

Do not include the following persons in the SER group:

- . Visitors in the home who do not normally live with the SER group
- . Renters who live with the SER group, provided a fair market rental rate is charged. Include the rental income in determining the SER group's eligibility.
- . The SER group's landlord, provided the group pays fair market rent to live in the home. Verify the SER group's payment by cancelled checks, money order carbons, or the landlord's federal or state tax return showing rental income.
- . A person physically present in the home who claims not to have any responsibility for meeting household emergencies. A person who desires exclusion on this basis has the burden of providing proof of the following:
 - . The emergency does not adversely affect the person requesting exclusion, and
 - . The person will not benefit if the group's application for SER is approved.

Example: A group of five adults share an apartment. The group includes a husband and wife and three unrelated persons. The husband dies, and the wife applies for SER burial assistance. Exclude the other three unrelated persons from the SER group. ERM, Item 201, pp. 1-2.

Penalties

When an SER group member has been denied or terminated assistance for failure to comply, when able, with a procedural requirement of FIP, SDA or SSI, the group is not eligible for SER.

SER ineligibility continues as long as the group member fails or refuses to take available action to obtain potential resources. Sanctioned groups are not eligible until the disqualification/penalty ends. ERM, Item 203, pp. 1-2.

CLIENT-CAUSED EMERGENCIES

DEPARTMENT POLICY

SER does not assist a group who failed to use their available money to prevent a shelter, energy or utility emergency. A client-caused emergency is when an SER group fails to pay required payments for the six-month period prior to the month of application. ERM, Item 204, p. 1.

REQUIRED PAYMENTS

Evaluate the payment history for the preceding six-month period to determine the required payment criteria. Required payments are actual shelter costs or required energy and/or utility payments as outlined in ERM 301 and ERM 302.

Note: Previously issued SER funds cannot be used to make required payments. Contributions from any other source can count toward required payment amounts. Refer to ERM 103, DHS-1419, Decision Notice regarding timeframes allowed for the client to make the copays or shortfalls when all other eligibility criteria are met. ERM, Item 204, p. 1.

GOOD CAUSE

Good cause may exist as a basis for an applicant's failure to prevent an emergency.

Establish good cause for the following services:

- . Relocation services
- . Home ownership services (except property taxes)
- . Energy services
- . Utility services

Good Cause -- Failure to Meet Obligations

Good cause for failure to meet obligations for shelter, energy, or utilities exists if:

- . The SER group's net countable income from all sources during each month the group failed to pay shelter/energy/utility obligations was less than the amount shown for the SER group size in the "Good Cause" table below, and
- . The income was not reduced by a disqualification of SSI or department benefits for failure to comply with a program requirement.

Note: This includes income of people who were in the group during the required payment period.

OR

Good Cause - Unexpected Expenses

- . The emergency resulted from unexpected expenses related to maintaining or securing employment. Verify expenses for each month the group failed to pay shelter/energy/utility obligations. The employment-related expenses must equal or exceed the monthly shelter/energy/utility obligation. Payment differences are the responsibility of the SER group. ERM, Item 204, pp. 1-2.

GOOD CAUSE DETERMINATION TABLE

SER Group Size	Good Cause Amount
1	\$225
2	\$240
3	\$255
4	\$270
5	\$285
6	\$300

Groups larger than 6 persons: Add \$15 for each additional person to the “group size 6” amount shown in the table. ERM, Item 204, p. 2.

INCOME

DEPARTMENT POLICY

Establish the SER budget computation period and determine the SER group’s net countable income. Refer to Item 208 for policy on determining the group’s SER financial eligibility and their required co-payment. ERM, Item 206, p. 1.

COMPUTATION PERIOD

The SER budget computation period is 30 days. The first day is the date the local office receives a signed application for SER.

Example: The local office receives a signed application on November 16. The budget computation period is November 16 through December 15. ERM, Item 206, p. 1.

COUNTABLE INCOME

Verify and budget all non-excluded gross income the SER group expects to receive during the budget computation period. **Do not prorate income.**

Unearned Income Examples:

- . FIP and SDA
- . Social Security benefits (RSDI/SSI). Use the net amount received.

Note: Do not count reimbursement of Medicare premiums.

- . SSI State Supplemental Payments. Refer to Reference Schedules Manual (RFS), Item 106, State SSI Payment Payroll Deadline Schedule.

Note: Budget the entire \$42 amount if it is expected to be received in the countable income period. (Do not budget \$14 per month as a prorated amount.)

- . Alimony, child support and child support participation payments
- . VA benefits
- . Lump sum payments of accumulated monthly benefits
- . Payments from sick and accident insurance plans
- . Pensions and retirement benefits
- . UCB (Unemployment Compensation Benefits)
- . Worker's Compensation
- . Strike Benefits
- . Income received from the sale of property
- . Military allotments
- . Investment income, such as dividends and interest
- . Income from annuities, bonds, stocks and trusts

Earned Income Examples:

- . Earnings from work as an employee (wages, salary, college work-study, commissions, tips)
- . Earnings from self-employment
- . Training allowances paid to persons enrolled in sheltered workshops
- . Rental income
- . Chore services payments. ERM, Item 206, pp. 1-2.

EXCLUDED INCOME

Do not count or verify income from the following sources:

- . Income of non-responsible group members in burial cases
- . Reimbursement of Medicare premiums

- . Income in kind (not in the form of cash)
- . Earned income of a dependent child under age 21 if: the income is deposited directly into a separate account intended for further education and not commingled with any other money **and** the account is in the dependent child's name.
- . Michigan Homestead Property Tax Credit and Home Heating Credit
- . Earned Income Credit
- . All services program benefits paid by the department on behalf of an SER group member (e.g., foster care payments and adoption subsidies)
- . Income of the SER applicant's spouse when the applicant is in an emergency shelter as a victim of domestic violence
- . Reimbursement for past, current or future training-related, medical or volunteer expenses
- . Compensation awarded for a particular use (e.g., Victim's Compensation Award)
- . Disaster relief and housing assistance
- . Child care payments or allowances made by DHS
- . Educational benefits and scholarships
- . Michigan Department of Community Health family support subsidy payments
- . WIC program benefits
- . Title VII nutrition program for the elderly
- . LIHEAP energy assistance benefits
- . Child nutrition and school lunch benefits
- . Food stamp benefits. ERM, Item 206, pp. 2-3.

INCOME DEDUCTIONS

Unearned Income

The only deductions allowed in SER unearned income budgeting are:

- Mandatory withholding taxes (use 25% of the gross)
- Paid, court-ordered child support, up to the amount ordered by the court, including arrears if ordered. No deduction is made for paid, voluntary child support.
- Health insurance premiums
- Medicare premiums that will not be reimbursed. ERM, Item 206, p. 3.

Earned Income

The only deductions allowed in SER earned income (including self-employment) budgeting are:

- Mandatory withholding taxes (use 25% of the gross)
- Deductions required by the employer as a condition of employment
- Health insurance premiums
- Court-ordered child support up to the amount ordered including arrears, if ordered
- Dependent care expenses

Note: SER does not allow deductions for expenses of producing self-employment income or garnishment action. ERM, Item 206, p. 3.

SER INCOME NEED STANDARDS

SER Group Size	Income Need Standard
1	\$445
2	\$500
3	\$625
4	\$755

5 \$885
*6 \$1,015

* Groups larger than 6 persons: Add \$100 for each additional person to the 'group size 6' SER Income Need Standards shown in the table. ERM, Item 206, p. 4.

UTILITY SERVICES

DEPARTMENT POLICY

SER helps to restore or prevent shut off of a utility service specified in this item when service is necessary to prevent serious harm to SER group members. ERM, Item 302, p. 1.

Covered Services

The following are covered services in this item:

- Payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. The payment must restore or continue service for at least 30 days at the current residence.
- A deposit (including membership fees and lease/rental payments for an on-site storage tank) required by the utility provider to begin, maintain, or restore one of the following services currently or previously the responsibility of the SER group: water, sewer and cooking fuel.
- Fees for connection, reconnection, or hookup of utility services. ERM, Item 302, p. 1.

A bill does not have to be in the client's name. However, the bill must be connected to the group's current address. If a previous bill, from the same provider, is transferred to the account at the current address, it is considered to be connected to the service at the new address. If the bill must be paid to maintain service at the new address, authorize payment. ERM, Item 302, p. 1.

Services Not Covered

Do not approve the following services under any circumstances:

- . Telephone arrearages, installation costs or deposits
- . Utility deposits for any rental unit if the address of the unit appears on the Vendor Payments Restricted Addresses list maintained on LOA
- . Unauthorized or illegal usage of any utility
- . Utility service that does not reflect the SER group's actual usage. An example of this is common service, when one meter serves more than one residence. If the local utility can verify the SER group's actual usage in these situations and the utility will accept payment for the SER group's portion and maintain service, common meter service is no longer a barrier to eligibility. ERM, Item 302, p. 1.

Required Payments

The SER group has to pay the minimum monthly amounts for water, sewer and/or cooking gas for the last 6 months as listed in the chart at the end of this item to be eligible for an SER payment toward their water and/or cooking gas service, or for a deposit. The "required payment" period is always the 6-month period prior to the month the SER group applies. If required payments of the requested service were not met, determine if good cause for non-payment exists. See ERM 204, Client Caused Emergencies and ERM 103, Application Procedures.

Note: Use DHS-1419, SER Decision Notice, each time a utility services payment is approved, acknowledging that the utility required payment must be met before utility services are again authorized. ERM, Item 302, pp. 1-2.

Payment Limits

Approve only the minimum amount required to maintain current water and/or cooking gas service. Once the fiscal year cap is reached, do not approve further payments. Deny the application if the maximum available SER payment will not continue the utility service, or restore service, for at least 30 days. ERM, Item 302, p. 2.

DEPARTMENT PHILOSOPHY

The Department's income budgeting policies are designed to support financial self-sufficiency by encouraging families to pursue all available means of income. We offer deductions from earned income so that families are financially advantaged by working. Staff should stress to clients the advantages of obtaining outside income. PEM, Item 518, p. 1.

Countable income is defined in PEM 500. Available income, the amount of income to budget and when to complete a budget are defined in PEM 505. Use this item to determine the program group's budgetable income and financial eligibility. PEM, Item 518, p. 1.

PROSPECTIVE BUDGETING/INCOME CHANGE PROCESSING

DEPARTMENT PHILOSOPHY

A group's benefits for a month are based, in part, on a prospective income determination. A "best estimate" of income expected to be received by the group during a specific month is determined and used in the budget computation.

Get input from the client whenever possible to establish this "best estimate" amount. The client's understanding of how income is estimated reinforces reporting requirements and makes the client an active partner in the financial determination process. PEM, Item 505, p. 1.

DEPARTMENT POLICY

FIP, SDA, CDC and FAP

A group's financial eligibility and monthly benefit amount are determined using:

- . actual income (income that was already received), and/or
- . prospected income amounts (not received but expected).

Only countable income is included in the determination (see PEM 500).

Each source of income is converted to a standard monthly amount, unless a full month's income will not be received (see Standard Monthly Amount in this item). PEM, Item 505, p. 1.

DETERMINING BUDGETABLE INCOME

FIP, SDA, CDC, FAP

Determine budgetable income using countable, available income for the benefit month being processed. PEM, Item 505, p. 2.

FAP INCOME BUDGETING

DEPARTMENT POLICY

This item applies **only to FAP**

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. PEM, Item 550, p. 1.

A non-categorically eligible, non-SDV FS group must have income below the gross and net income limits. PEM, Item 550, p. 1.

Use **only** available, countable income to determine eligibility. PEM 500 defines countable income. PEM 505 defines available income and income change processing. This item describes income budgeting policy. PEM, Item 550, p. 1.

In the instant case, the claimant had earned and unearned income that needed to be utilized to determine eligibility for SER and FAP. The department caseworker correctly determined that the claimant was not eligible for SER benefits because her co-payment was more than the shutoff notice. In addition, as a result of the SER application, the department caseworker did a redetermination of the claimant's FAP benefits to determine that the claimant failed the gross income test for FAP benefits, which resulted in the claimant's FAP case being closed.

Therefore, the department has established that it was acting in compliance with department policy by determining that the claimant was not eligible for SER benefits because her

client co-pay was more than the shutoff notice and correctly closed the claimant's FAP case because her household income exceeded the gross income test.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the department appropriately denied the claimant's SER application and closed the claimant's FAP case.

Accordingly, the department's decision is **AFFIRMED**.

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 23, 2010

Date Mailed: June 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 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.

CGF/vc

cc:

