

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.: 201025158

Issue No.: 3014,5020

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

May 20, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 20, 2010. The Claimant appeared and testified. [REDACTED], ES appeared on behalf of the Department.

ISSUE

Was the Department correct in determining Claimant's Food Assistance benefits and in determining Claimant's eligibility for State Emergency Relief?

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 was an on- going recipient of Food Assistance benefits.
- (2) Claimant applied for State Emergency Relief on January 8, 2010.

- (3) Claimant requested assistance with a heating bill of \$190.79 and an electricity bill of \$223.18. The total amount of assistance requested was \$413.97.
- (4) Claimant's application for State Emergency Relief was denied because the total copayment exceeding the need.
- (5) Claimant's FAP benefits were reduced to \$600 on January 31, 2010 due to [REDACTED], [REDACTED], and [REDACTED] being ineligible students and not included in the household for the purpose of determining FAP benefits.
- (6) Claimant receives \$1548 in monthly unemployment benefits.
- (7) Claimant requested hearing on February 25, 2010 contesting the reduction of FAP benefits and denial of State Emergency Relief.

CONCLUSIONS OF LAW

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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Program Reference Manual ("PRM"). **FAP Only**-A person is in student status if he is:

- Age 18 through 49: and
- Enrolled half-time or more in a:
 - Vocational, trade, business, or technical school that normally requires a high school diploma or an equivalency certificate.
 - Regular curriculum at a college or university that offers degree programs **regardless** of whether a diploma is required. In order for a

person in student status to be eligible, they must meet one of the following criteria:

- Receiving FIP.
- Enrolled in an institution of higher education as a result of participation in:
 - Approved employment -related activities (See BEM 230B).
 - A JTPA program.
 - A program under section 236 of the Trade Readjustment Act of 1974 (U. S. C. 2296).
 - Another State or local government employment and training program.
- Physically or mentally unfit for employment.
- Employed for at least 20 hours per week and paid for such employment.
- Self-employed for at least 20 hours per week and earning weekly income at least equivalent to the federal minimum wage multiplied by 20 hours.
- Participating in an on-the-job training program. A person is considered to be participating in an on-the-job training program only during the period of time the person is being trained by the employer.
- Participating in a state or federally-funded work study program (funded in full or in part under Title IV-C of the Higher Education Act of 1965, as amended) during the regular school year. To qualify under this provision the student must be approved for work study during the school term and anticipate actually working during that time. The exemption:
 - Starts the month the school term begins or the month work study is approved, whichever is later.
 - Continues until the end of the month in which the school term ends, or when you become aware that the student has refused a work-study assignment.
 - Remains between terms or semesters when the break is less than a full month, or the student is still participating in work study during the break.
- Providing more than half of the physical care of a group member under the age of six.
- Providing more than half of the physical care of a group member age six through eleven and the local office has determined adequate child care is not available to:
 - Enable the person to attend class and work at least 20 hours per week.
 - Participate in a state or federally-financed work study program during the regular school year.
- A single parent enrolled full-time in an

institution of higher education who cares for a dependent under age 12. This includes a person who does not live with his or her spouse, who has parental control over a child who does **not** live with his or her natural, adoptive or stepparent.

For the care of a child under age six, consider the student to be providing physical care as long as he or she claims primary responsibility for such care, even though another adult may be in the FAP group. When determining the availability of adequate child care for a child six through 11, another person in the home, over 18, need not be a FAP group member to provide care. The person remains in student status while attending classes regularly. Student status continues during official school vacations and periods of extended illness. Student status does not continue if the student is suspended or does not intend to register for the next school term (excluding summer term). BEM 245.

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’ [formerly known as the Family Independence Agency] 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.


In the present case, Claimant applied for State Emergency Relief seeking assistance with utilities. The Department determined that Claimant had a co-payment of \$433. The income need standard for a 7 person household is \$1115. ERM 208. Claimant has net countable income of \$1548. $1548 - 1115 = 433$ Claimant requested \$413.97 in assistance for outstanding utilities.

Since the amount of the co-payment exceeded the amount requested, Department policy dictates that SER be denied. ERM 208. This was the determination made by the Department and it is correct.

Claimant has three children, [REDACTED], [REDACTED] and [REDACTED], who are attending college. Department policy dictates that household members who are attending college are ineligible students unless they meet certain criteria. Those criteria are listed above in BEM 245. Claimant's children who are attending college do not meet the criteria listed in BEM 245. Therefore the Department's determination that they are ineligible students is correct.

DECISION AND ORDER

This Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department was correct in the determination of Claimant's FAP benefits, and it is ORDERED that the Department's decision is hereby AFFIRMED. This Administrative Law Judge, based upon the above findings of fact and conclusions of law, further decides that the Department was correct in the denial of State Emergency Relief benefits, and it is ORDERED that the Department's decision is hereby AFFIRMED.

/s/  _____
Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

201025158/AM

Date Signed: June 9, 2010

Date Mailed: June 9, 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.

AM/htw

cc:

