

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: 2010-38181
Issue No: 3002, 5008
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 7, 2010
Oscoda County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on June 7, 2010. After due notice, a telephone hearing was held on Wednesday, July 7, 2010.

ISSUES

(1) Whether the Department of Human Services (Department) properly determined the Claimant's Food Assistance Program (FAP) eligibility?

(2) Whether the Department of Human Services (Department) properly determined the Claimant's State Emergency Relief (SER) eligibility?

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 is a FAP recipient.

(2) On May 18, 2010, the Department received the Claimant's application for SER benefits. Department Exhibit 4 – 8.

(3) On May 18, 2010, the Department sent the Claimant a SER Verification Checklist with a due date of May 25, 2010. Department Exhibit 32 – 34.

(4) On May 18, 2010, the Department received a letter from the Claimant's landlord, which indicated that the Claimant would have to find another place to live by June 13, 2010. Department Exhibit 9.

(5) On May 20, 2010, the Department received a retirement account statement from the Claimant dated February 1, 2009, through April 30, 2009. Department Exhibit 22 – 28.

(6) The Department denied the Claimant's application for SER benefits on May 27, 2010. Department Exhibit 39.

(7) The Department received the Claimant's request for a hearing on June 7, 2010, protesting the amount of her FAP benefits, and the denial of her SER application.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Claimant receives a monthly FAP allotment of \$200 as a group of one. This is the maximum amount of FAP benefits a group of one can receive. The Claimant agreed that there was no further need for a hearing on the issue of FAP eligibility. The claimant's hearing request concerning FAP benefits is HEREBY DISMISSED, because claimant is no longer aggrieved by a department action.

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. Family Independence Agency (FIA or agency) policies are found in the State Emergency Relief Manual (SER).

The SER group must use countable cash assets to assist in resolving their emergency, but the first \$50 of assets may be excluded. ERM 205. Examples of cash assets are:

- Currency and coins.
- Amounts on deposit in banks, savings and loan associations, credit unions and other financial institutions.
- Uncashed checks, drafts and warrants.
- Traveler's checks.
- Stocks, bonds and other investments, including negotiable instruments.
- Individual retirement accounts.
- Keogh plans.
- Revocable prearranged funeral contracts.

- Nonrecurring lump-sum payments that do not represent an accumulation of monthly benefits. ERM 205.

The Department must verify assets to determine eligibility to receive benefits. ERM 205.

On May 18, 2010, the Department received the Claimant's application for SER benefits, and sent the Claimant a SER Verification Checklist with a due date of May 25, 2010. The Department requested that the Claimant verify her cash assets. On May 20, 2010, the Department received a retirement account statement from the Claimant dated February 1, 2009, through April 30, 2009. The Department was unable use this statement to verify the Claimant's assets because it was one year old. The Department denied the Claimant's SER application on May 27, 2010, for failure to verify her assets.

The Claimant argued that she had contacted her retirement account manager, and that she was unable to get a more current account statement. The Claimant testified that due to her unstable residency situation, it is difficult for her to receive her mail, and that she did not have a more current statement. The Claimant testified that her retirement account manager refused to issue a duplicate statement.

The Claimant had a duty to verify her assets and income to the Department to be eligible for benefits. This duty is not alleviated by the prospect of paying additional fees to obtain duplicate statements of her retirement account. If a third party refuses to cooperate with verification, the Department must provide assistance with obtaining verification, or use the best information possible. In this case, the Claimant failed to establish that she make a reasonable effort to obtain verification of her assets, or seek assistance from the Department to obtain verification by other means.

The Claimant argued that her retirement account should not be considered an available resource because she would suffer a penalty for early withdrawal.

The Department requires SER applicants use all countable cash assets towards resolving their emergency as a condition of receiving benefits. A retirement account meets the Department's policy definition of a countable cash asset. ERM 205.

Based on the evidence and testimony presented during the hearing, the Department has established that it acted in accordance with policy when it denied the Claimant's SER application.

DECISION AND ORDER

1. The Administrative Law Judge based on the agreed upon settlement ORDERS that Claimant's hearing request is DISMISSED because claimant is no longer aggrieved by a department action.

2. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted in accordance with policy in determining the Claimant's SER eligibility.

The Department's SER eligibility determination is AFFIRMED. It is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 26, 2010

Date Mailed: July 27, 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.

KS/vc

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