

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No: 2011 31821
Issue No: 3002,5026,5006
Case No: [REDACTED]
Hearing Date:
June 6, 2011
Macomb County DHS (12)

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 June 6, 2011. The Claimant appeared and testified. Kelley Teed Wheaton, ES appeared on behalf of the Department.

ISSUE

Whether the Department correctly determined Claimant's Food Assistance benefits.

Whether the Department correctly denied the Claimant's application for State Emergency Relief (SER) for rent assistance.

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 an ongoing recipient of Food Assistance.
2. The Claimant submitted a SER application on March 11, 2011.

3. The application was denied because the shortfall, based on the last six months payment history and copay amount, exceeded the need. Exhibit 11
4. The Department calculated the SER need, based on the Judgment, in the amount of \$1696 entered for non payment rent. Exhibit 5
5. The Claimant's shortfall, the amount he did not pay in rent for a six month period, was \$1106. This amount was based upon information provided by the Claimant's landlord and is correct. Exhibit 2 and 3.
6. The Department also determined that the Claimant's total earned income of \$1368 required that he make a copayment of \$868. Exhibit 4
7. The Department denied the Claimant's SER application because the sum of the copayment amount of \$868 and shortfall \$1106 totaled \$1974 and exceeded the amount of the rent owed of \$1696. Exhibit 11
8. The Claimant lives with another person by the name of [REDACTED] who is a friend and is included in the Claimant's FAP group.
9. That person reported receipt of RSDI in the amount of \$528.50 in November 2010. The addition of this unearned income was included in the FAP budget calculation and caused the claimant's FAP benefits to decrease to \$157 on December 1, 2010.
10. The home help income received by [REDACTED] in the amount of \$228 ceased on January 19, 2011, when the Department removed this amount for the Claimant's FAP budget. The Claimant's FAP was increased to \$232
11. The Claimant receives SSI in the amount of \$674.
12. The Department also included \$165 in unearned income also received by [REDACTED] as of March 11, 2011. As a result of this unearned income, the Claimant's FAP benefits were decreased to \$158, which is the current amount of FAP benefits received.
13. The Claimant's group is a SDV group of two members, both group members receive RSDI.
14. The Department based the Claimant's FAP budget on rent of \$600. The Department did not use the Claimant's mortgage amount as it did not receive the information.
15. The Department agreed that it would honor the date appearing in its sign-in log when the Claimant delivered the information regarding his mortgage.
16. The Claimant requested a hearing on April 8, 2011, protesting the fluctuation in the monthly FAP benefit amount and the denial of the SER application.

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”).

Department Policy defines household income to include RSDI and benefits and SSI benefits which are considered unearned income. The Department must include all income earned and unearned income in the FAP budget and must include the gross income. BEM 500, 550.

A standard deduction of \$141 for a group of two persons is deducted from the gross unearned income of FAP recipients in determining FAP grants. RFT 255. Deductions for excess shelter are also made. BEM 554. Medical expenses over \$35.00 are also taken into consideration for groups with one or more SDV (Senior, Disabled or Veteran). BEM 554, P. 1. The Claimant’s group is an SDV group as both group members receive RSDI.

In the present case, according to the aforementioned policy on budgeting for FAP benefits, Claimant’s FAP group had a gross monthly income of \$1396, which was calculated by the Department based upon the SOLQ reports and confirmed at the hearing by the Claimant. The Adjusted gross income was determined to be \$1255 which is correct. The Department deducted the standard deduction from the gross income to determine the adjusted gross income. ($\$1396 - \$141 = \$1255$). Exhibit 15. The excess shelter amount of \$561.00 was based upon the claimant’s previously reported rent of rent of \$600 per month and a standard utility expense of \$588 included in all FAP

budgets was included Exhibit 2. The excess shelter amount was subtracted from the adjusted gross income of \$1255 to get the net income amount of \$694. The amount of food assistance allotment is established by RFT 260. A household of two persons with a net monthly income of \$694 as of 6/1/11 is entitled to a monthly FAP grant of \$158.00 per month. RFT 260.

The Department correctly based the FAP calculations on the best available information regarding the Claimant's housing expenses. The Claimant credibly testified that he had submitted proof of his mortgage amount to the Department. At the hearing the Department confirmed it would honor the Claimant's filing date for the mortgage information based upon its review of the sign in log. As the Claimant is currently paying a mortgage in the amount of \$500, some further adjustment in the Claimant's FAP benefits may result when the Department recomputes the FAP budget. The Claimant is urged to also provide the Department verification of taxes and insurance paid on the home which will count as a housing expense.

Based upon the review of the Food Assistance budget provided by the Department to support the Claimant's ongoing FAP benefit amount, and the documentary evidence in support of unearned income, which was confirmed by the Claimant, it is determined that the Department correctly calculated the Claimant's FAP benefits and its determination is correct .

STATE EMERGENCY RELIEF

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' [formally known as the Family Independence Agency] policies are found in the State Emergency Relief Manual ("ERM").

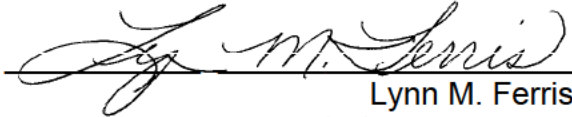
State Emergency Relief ("SER") prevents serious harm to individuals and families by assisting applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101, p. 1.

In the present case, Claimant applied for state emergency relief seeking assistance with a judgment for rent in the amount of \$1696. The Department determined that Claimant had a copayment of \$868. The income need standard for a 2 person household is \$500. ERM 208 The copayment is based on income as follows; Claimant has net countable monthly income of \$1368. $1368-500=868$. In addition the Department determined that the Claimant had a rent payment shortfall based upon the 6 month payment history of \$1106. As Claimant requested \$1696 in assistance for rent and the amount of the copayment and shortfall amount total exceeded the requested amount of rent assistance of \$1696, Department policy dictates that SER be denied. ERM 208 This was the determination made by the Department and it is correct. Its denial of Claimant's SER application is affirmed.

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 application for rent assistance benefits, and it is ORDERED that the Department's decision is hereby AFFIRMED.


Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 06/23/11

Date Mailed: 06/24/11

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.

LMF/dj

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