

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-31876
Issue No.: 1018; 3002; 5003
Case No.: [REDACTED]
Hearing Date: June 8, 2011
Oakland County DHS

ADMINISTRATIVE LAW JUDGE: Susan Burke

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 8, 2011. The Claimant was present and testified via three-way phone conference. The Department of Human Services (Department) was represented by [REDACTED] ES.

ISSUE

Was the Department correct in its calculation of Claimant's Food Assistance Program (FAP) grant?

Was the Department correct in its decision to deny Claimant's application for Cash Assistance?

Was the Department correct in not facilitating Claimant's SER application for rent?

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 ongoing FAP recipient in a household of one.
2. Claimant received \$309.06 per week in worker's compensation.
3. Claimant had an obligation for shelter, utilities and heat.

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4. The Department determined that claimant was entitled to \$16.00 in FAP benefits per month.
5. Claimant applied for Cash Assistance.
6. The Department denied Claimant's application for Cash Assistance on February 16, 2011.
7. Claimant completed an application for SER-rent sometime in January and left the application in the box at the local DHS office.
8. The application was not processed.
9. Claimant paid his past due rent with income tax refund money.
10. Claimant requested a hearing regarding FAP and SER for rent.

Conclusions of Law

FOOD ASSISTANCE PROGRAM

The Food Assistance Program (FAP) 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 administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in BAM, BEM and PRM, which includes the Reference Tables (RFT.).

The federal regulations define household income to include SSI and RSDI benefits, as well as earned income. 7 CFR 273.9(b) Only 80% of earned income is counted in determining FAP benefits. BEM 550. Under 7 CFR 273.9, as amended, and RFT 255, \$141.00 is deducted from the gross income of FAP recipients in a household of one in determining FAP grants. Under 7 CFR 273.9, deductions for excess shelter are also made. BEM 554.

In the present case, according to the aforementioned policy on budgeting, Claimant has a net monthly income of \$729.00. This was obtained by subtracting the standard deduction of \$141.00 and the excess shelter amount of \$458.00 from the gross income of \$1,328.00 (\$309.00 x 4.3 (BEM 505)). The amount of a monthly food assistance allotment is established by regulations at 7 CFR 273.10. A household of one with a net monthly income of \$729.00 is entitled to a monthly FAP grant of \$16.00 per month. RFT 260. The Department was therefore correct in its calculation of Claimant's FAP grant.

STATE EMERGENCY RELIEF-RENT

The 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 policies are found in the State Emergency Relief Manual (ERM).

BAM 105, p. 1 dictates:

The local office must do **all** of the following:

- Determine eligibility.
- Calculate the level of benefits.
- Protect client rights.

ERM 101 dictates that SER applicants must have an emergency which threatens health or safety and can be resolved through issuance of SER.

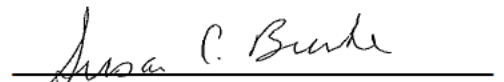
In the present case, Claimant testified credibly that he completed an SER application when he received a legal notice of eviction. The Department failed to process Claimant's application according to its policy. However, Claimant also testified at the hearing that the emergency was resolved by his receiving a tax refund from which he paid back rent and he was not evicted. Therefore, the remedy of having the Department process Claimant's January application would not be of assistance to Claimant, as his January rental issue has been resolved. Claimant testified that he is currently under a court-ordered eviction notice. The Department agreed at the hearing to assist Claimant in applying for a current SER for rent.

CASH ASSISTANCE

It is noted that Claimant did not request a hearing on Cash Assistance, but Claimant's Cash Assistance was discussed at the hearing. It is determined that the Department was correct in its decision to deny Claimant's Cash Assistance, as Claimant is not a caretaker, disabled or a refugee, and does not meet the age requirements. See BEM 210, 214, 630.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was correct in its calculation of Claimant's FAP grant and in its decision to deny Claimant's application for Cash Assistance, and it is therefore ORDERED that the Department's decision is AFFIRMED. It is further decided that the Department was not correct in not facilitating Claimant's January SER-Rent application, but that issue was resolved, so it is ORDERED that the Department shall assist Claimant in his current application for SER-Rent.



Susan Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 6/16/11

Date Mailed: 6/16/11

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 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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