

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 20114252  
Issue No: 3015; 5016  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
December 7, 2010  
Van Buren County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

**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 received on October 26, 2010. After due notice, a telephone hearing was held on December 7, 2010. Claimant personally appeared and provided testimony.

**ISSUES**

1. Did the department properly determine that Claimant was not eligible for Family Assistance Program (FAP) benefits due to excess income?
2. Did the department properly deny Claimant's State Emergency Relief (SER) application for not meeting the program requirements?

**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 applied for FAP and SER on October 14, 2010. (Department Exhibit 1).
2. Claimant's Senior/Disabled/Veteran (SDV) group size is 3.
3. Claimant's group received Retirement, Survivors and Disability Insurance (RSDI) in the amount of \$2,289.00 a month. (Department Exhibit 4).

4. Claimant submitted a hearing request on October 26, 2010, protesting the denial of FAP and SER. (Request for a Hearing).

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the department multiplies the average weekly amount by 4.3. If the client is paid every other week, the department multiplies the average bi-weekly amount by 2.15. BEM 505.

Claimant's group was receiving monthly earned income in the amount of \$1,248.00 at the time relevant to this matter. Claimant's son was being paid weekly, and the department determined this amount by multiplying the \$290.00 of weekly gross income Claimant's son earned in October 2010, by a 4.3 conversion factor in accordance with the applicable department policy. Claimant also received unearned income in the form of RSDI for himself and his wife in the amount of \$2,289.00 during October 2010. Therefore, Claimant's group received a total monthly income of \$3,537.00, which is reduced by a 20% earned income deduction of \$250.00 and a standard deduction of \$141.00 and a medical deduction of \$158.00, which leaves an adjusted gross income of \$2,988.00.

An excess shelter deduction is determined by adding Claimant's monthly housing expenses to the \$588.00 standard heat and utility deduction under the Low Income Home Energy Assistance Program, and subtracting half of Claimant's adjusted gross income. In this case, Claimant received an excess shelter deduction of \$252.00 based on his SDV designation, resulting in net income of \$2,736.00. Because Claimant's net income of \$2,736.00 exceeded the allowable monthly net income limit, Claimant is not entitled to FAP benefits for the time period in question. RFT 260.

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). Department policy states:

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 302.

The following are covered utility services:

- 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. However, payments for current charges are not allowed.
- 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 302.

The Department must verify an actual or possible shutoff of water, sewer or cooking gas service by:

- A disconnect notice from the utility.

- Information from the utility provider's secure Web site.
- An overdue or delinquency notice when the water or sewer is not disconnected but the arrearage is added to the local tax bill.
- The client's statement of need for cooking fuel.

In this case, Claimant submitted an SER application for assistance with his propane bill. The department explained Claimant's SER application was denied because there was no emergency as Claimant's propane tank was 45% full. Claimant testified that with the cold weather, it was now down to 20%. However, no evidence or testimony was presented at the hearing showing that Claimant's propane provider had shutoff or threatened to shutoff his propane service. Therefore, in accordance with departmental policy, the Department has established that Claimant was not eligible for SER benefits because there was no emergency situation present at the time of application.

### **DECISION AND ORDER**

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 Claimant's FAP and SER eligibility.

The department's FAP and SER eligibility is AFFIRMED. It is SO ORDERED.

/s/

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Vicki L. Armstrong  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: December 28, 2010

Date Mailed: December 28, 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.

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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.

VLA [REDACTED]

cc: [REDACTED]