

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

IN THE MATTER OF:



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Allegan County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the DHS client's (also referred to as "Claimant") request for a hearing received on July 25, 2011. After due notice, a telephone hearing was held on September 9, 2011. Claimant personally appeared and provided testimony.

**ISSUES**

1. Did the department properly deny Claimant's State Emergency Relief (SER) application for non-heat electricity?
2. Did the department properly determine Claimant's Food Assistance Program (FAP) benefits?

**FINDINGS OF FACT**

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. During the month of June, 2011, Claimant was an active FAP recipient with a monthly allotment of (Department Exhibits 10 & 11).
2. Claimant had a household group size of 8 (eight). (Department Exhibits 10 & 11). The household group consisted of Claimant, her husband, their 3 (three) biological children, 2 (two) foster children. One of the foster children also had a child. (Department Exhibit 29).
3. On June 17, 2011, Claimant applied for State Emergency Relief (SER) assistance seeking help for non-heat electricity or energy services. (Department Exhibit 5).
4. While the application for SER was pending, Claimant was found to be in non-cooperation with child support. (Department Exhibit 2).

5. On June 25, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605) that decreased Claimant's FAP allotment to \$245.00 for a household group size of 7 (seven). (Department Exhibits 21-22). Claimant was removed from the group because she was in non-compliance with child support. (Department Exhibits 21-22).
6. On July 1, 2011, Claimant brought herself into compliance with child support. (Department Exhibit 2). Claimant then applied for Family Independence Program (FIP) or cash assistance on behalf of one of the foster children.
7. On July 2, 2011, the department mailed Claimant a Notice of Case Action (DHS-1605) which increased Claimant's FAP from [REDACTED] and increased the group size to 8 (eight). (Department Exhibits 24-26).
8. On July 15, 2011, the department mailed Claimant an SER Decision Notice (DHS-1419) denying assistance due to non-cooperation with child support. (Department Exhibit 5).
9. On July 15, 2011, the department mailed a Notice of Case Action (DHS-1605) approving Claimant's FIP as an ineligible grantee in the amount of [REDACTED] per month and reducing Claimant's monthly FAP amount to [REDACTED] (Department Exhibits 15-20).
10. The department received Claimant's request for a hearing on July 25, 2011 challenging the SER application denial and the FAP reduction. (Hearing Summary).

### **CONCLUSIONS OF LAW**

The regulations that govern the hearing and appeal process for applicants and recipients of public assistance in Michigan are contained in the Michigan Administrative Code (Mich Admin Code) Rules 400.901 through 400.951. An opportunity for a hearing shall be granted to a recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. Mich Admin Code 400.903(1).

The client has the right to request a hearing for any action, failure to act or undue delay by the department. BAM 105. The department provides an administrative hearing to review the decision and determine its appropriateness. BAM 600.

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. See Michigan Administrative Code (Mich Admin Code) Rule 400.7001-400.7049. Department of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

The application date is the first day of the 30-day SER eligibility period. ERM 103. As a condition of SER eligibility, all the adults in the SER group must agree to take actions within their ability to make potential resources available. ERM 203. Potential resource means an asset or income that may be available to a client if action is taken to make this available. ERM 203.

Groups that are non-cooperative with the Office of Child Support are also ineligible for SER. ERM 203. SER ineligibility continues as long as the group member fails or refuses to pursue potential resources. ERM 203. Sanctioned groups that are able to comply are ineligible for SER until they comply. ERM 203.

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 Program 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.

Here, there are two issues: the denial of Claimant's SER application and the proper calculation of Claimant's FAP. With regard to the SER question, the department denied Claimant's application because she was non-compliant with the Office of Child Support. Claimant applied for SER on June 17, 2011 and was later found to be in non-compliance with the Office of Child Support on or about June 24, 2011. The department took the position that Claimant was no longer eligible for SER once she became non-compliant with child support during the 30-day SER eligibility period.

Once Claimant was found to be in non-cooperation with the Office of Child Support, she was ineligible for SER. ERM 203. At the time Claimant initially applied for SER, the department did not indicate she was in non-compliance with child support. Her non-compliance occurred during the 30-day SER eligibility period. The department properly found Claimant ineligible for SER due to non-cooperation with child support.

The second issue concerns Claimant's FAP determination. Claimant requested a hearing because the department reduced her monthly FAP from [REDACTED] on July 15, 2011. The department reduced Claimant's FAP due to a change in income. Once the department approved Claimant's application for FIP in the amount of [REDACTED] per month as an eligible grantee, Claimant's unearned income increased accordingly. Claimant's group member also worked at Boars Head earning [REDACTED] per month in earned income. Following the recent FIP income, Claimant's new unearned income totaled \$ [REDACTED]. Claimant's total monthly income amount (earned and unearned) was \$ [REDACTED] earned income deduction equals [REDACTED]. This amount is subtracted by the standard deduction of [REDACTED] which equals a total net income of [REDACTED]. The proper FAP issuance for clients with a group size of 8 (eight) and a monthly net income of \$ [REDACTED] RFT 250.

Accordingly, this Administrative Law Judge finds, based on the material and substantial evidence presented during the hearing, that the department properly denied Claimant's SER eligibility for the reasons stated above. This Administrative Law Judge finds that based on the material, substantial and competent evidence, the department properly reduced Claimant's FAP benefits.

**DECISION AND ORDER**

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

The Department's SER eligibility determination is AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did act in accordance with policy in determining the reduction in Claimant's FAP allotment.

The Department's FAP eligibility determination is AFFIRMED.

IT IS SO ORDERED.

/s/  
C. Adam Purnell  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: 9/16/11

Date Mailed: 9/16/11

**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 date of the rehearing decision.

CAP/ds

■ [REDACTED]