

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

IN THE MATTER OF:

[REDACTED]

[REDACTED]

Jackson 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 August 16, 2011. After due notice, a telephone hearing was held on September 29, 2011. Claimant personally appeared and provided testimony.

ISSUE

Whether the department properly denied Claimant's State Emergency Relief (SER) application and whether Claimant was coerced into signing a repay agreement for a Food Assistance Program (FAP) Intentional Program Violation (IPV)?

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 State Emergency Relief (SER) on July 29, 2011 for assistance with his [REDACTED] electric bill. (Department Exhibits 1-4).
2. On July 29, 2011, the department notified Claimant that the department would pay [REDACTED] towards his electric bill after he provided proof he paid [REDACTED]. (Department Exhibits 7-8).
3. On April 28, 2011, Claimant signed the repay agreement admitting his Intentional Program Violation of the FAP program and was sanctioned 12 months, beginning July 1, 2011 through June 30, 2012. (Department Exhibits 14-18).
4. On June 2, 2011, the department mailed Claimant a Notice of Case Action informing him his FAP program was being closed effective July 1, 2011

because his net income exceeded the program limit and a group member had an Intentional Program Violation. (Department Exhibits 11-12).

5. Claimant submitted a hearing request on August 16, 2011 protesting the denial of his SER application and closure of his FAP benefits. (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 400.901-400.951. 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). The department will provide an administrative hearing to review the decision and determine the 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. 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:

Low-income households who meet eligibility requirements in this item can receive assistance to help them meet their household heat and electric costs. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP). ERM 301.

When the group's heating or electric service for their current residence is in threat of or is already off and service must be restored, payment may be authorized to the provider up to the fiscal year cap. ERM 301.

To be eligible for energy service assistance, an SER group must make required payments toward their energy service bills unless the case is categorically eligible. The required payment amounts are based on the group size and service (heat or electric). ERM 301.

Energy required payments are met if the amounts paid by the group for heating fuel and/or electricity equal or exceed the table amounts for the required payment period. Required payments must be met for each month the SER group has an obligation to pay for the service. Failure to make required payments may result in a shortfall.

A DHS-1419, SER Decision Notice, is sent to the client for every energy request. The notice must include the required payment amounts to inform the client of their obligation. The department must verify actual or threatened shutoff or need for reconnection of natural gas or electricity by contact with the utility company. Contact can be in the form of a written notice, telephone call, fax, email or information on the

provider's secure website. The department may verify the need for deliverable fuels by the statement of the group.

To verify the cost of the emergency, an actual bill must be obtained from the provider before authorizing a payment. The department may approve payments up to the fiscal year cap if it will resolve the emergency and if the energy provider will maintain or restore service for at least 30 days. Approvals will not be authorized for any energy services payment that will not resolve the current emergency, even if the payment is within the fiscal year cap.

In this case, Claimant requested assistance in paying his electric bill of [REDACTED] to [REDACTED]. Based on Claimant's previous SER applications, Claimant's request was approved pending his payment of the balance of [REDACTED] to meet the annual cap of [REDACTED]. ERM 301. Claimant failed to pay the balance and his SER request was denied. Therefore, in accord with departmental policy, the Department has established that Claimant was not eligible for SER benefits to pay his electric and water bills because Claimant failed to provide verification of payment.

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 Reference Tables Manual (RFT).

On April 28, 2011, Claimant signed an Intentional Program Violation Repayment Agreement and as a result, his FAP program was closed for a 12-month sanction beginning July 1, 2011 through June 30, 2011. During the hearing, Claimant claimed he was coerced into signed the repayment agreement, because he felt he had no choice because DHS is a governmental entity. In reviewing Claimant's testimony, the Administrative Law Judge finds Claimant presented no credible evidence that he was under duress when he signed the repay agreement. Furthermore, by signing the repayment agreement, Claimant waived prosecution and an administrative disqualification hearing. Therefore, Claimant has no standing to request a hearing on this issue and the issue is dismissed.

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 denying Claimant's SER application and closing Claimant's FAP case.

The department's SER and FAP decisions are AFFIRMED.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 10/12/11

Date Mailed: 10/12/11

NOTICE: Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

VLA/ds

