

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████ 205

Reg. No.: 2011-7217
Issue Nos.: 3020, 5016, 5026
Case No.: ██████████
Hearing Date: December 13, 2010
DHS County: Wayne (82-43)

ADMINISTRATIVE LAW JUDGE: Susan C. Burke

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. After due notice, a telephone hearing was held on December 13, 2010. Claimant appeared and testified. ██████████, appeared on behalf of the Department of Human Services (Department).

ISSUES

1. Was the Department correct in its Notice of Overissuance attempting to recoup?
2. Was the Department correct in its denial of State Emergency Relief (SER) for rent due to Claimant's shortfall amount being equal to or greater than the amount needed to resolve the emergency?
3. Was the Department correct in its decision that the shortfall amount was equal to or greater than the amount needed to resolve the emergency for the energy services?

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 is an ongoing Family Independence Program (FIP) and Food Assistance Program (FAP) recipient.
2. Claimant's daughter, ██████████, was a graduate of high-school and eighteen years of age, with a birth date of ██████████.

3. The Department issued Claimant a Notice of Case Action dated September 29, 2010, stating that the cash program benefit was decreased as of November 1, 2010, noting that [REDACTED] was not eligible because she is an adult.
4. The Department issued claimant a Notice of Overissuance on October 27, 2010, indicating client error, with the overissuance amount of \$291.00 and is attempting to recoup.
5. Claimant was in a group size of four.
6. Claimant applied for SER for rent in the amount of \$944.00 on October 4, 2010.
7. Claimant had paid a total of \$250.00 in rent in the six-month period prior to the month of application.
8. Claimant's income per month was \$597.00.
9. Claimant's rent per month was \$500.00.
10. The Department issued a State Emergency Relief Decision on October 13, 2010, stating that Claimant's request for rent was denied because her shortfall amount was equal to or greater than the amount needed to resolve the emergency.
11. Claimant applied for SER for heat and electricity in the amount of \$452.34 on October 18, 2010.
12. Claimant had paid a total of \$ \$355.67 toward the heat and electric in the prior six months to the date of the application.
13. The Department issued a State Emergency Relief Decision on October 27, 2010, stating that Claimant's request for non-heat electricity and heat was denied because the shortfall amount was equal to or greater than amount needed to resolve the emergency.
14. Claimant requested a hearing on November 4, 2010, on the issues of Overissuance and SER for rent and energy services.

CONCLUSIONS OF LAW

A. Overissuance

FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and MAC R400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

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 administers FAP pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in BAM, BEM and PRM.

Bridges instructs that:

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). [] An **overissuance (OI)** is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. [] **Overissuance type** identifies the cause of an overissuance. BAM 700, p. 1.

...

Agency error OI's are not pursued if the estimated OI amount is less than \$125 per program. BAM 700, p. 4.

In the instant case, Claimant does not dispute the fact or amount of overissuance, but she does dispute the type of overissuance. Claimant stated that she attempted numerous times to contact the Department to advise them that there was a change in her household, that is, that a son had moved out of the household and that a daughter had turned eighteen and had graduated from high school. For purposes of this hearing, however, it does not matter whose error it was, since even if it were the Department's error, the overissuance would have been issued because the amount of overissuance was over \$125.00. BAM 700. The Department was, therefore, correct in issuing the Notice of Overissuance and attempting to recoup.

B. SER

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).

1. Rent

SER does not assist a group who failed to use their available money to prevent a shelter, energy or utility emergency. A client-caused emergency is when an SER group fails to pay required payments for the six-month period prior to the month of application. Required payments are actual shelter costs or required energy and/or utility payments. Required payments are determined based on the group members in the home during the required payment period. Previously issued SER funds cannot be used to make required payments. ERM 204.

Good cause for failure to meet obligations for shelter, energy, or utilities exists if the SER group experiences unexpected expenses related to maintaining or securing employment or the SER group's net countable income from all sources during each month the group failed to pay shelter/energy/utility obligations was less than \$270.00 for a group size of four. ERM 204 (Table).

In the present case, Claimant does not dispute that the monthly income of the group is \$577.00, that the rental amount requested was \$944.00, that the amount of rent was \$500.00 per month, and that in the six-month period prior to the application, she paid \$250.00 toward rent, which she made in August 2010. (Claimant also testified that she paid \$200.00 in October, but the application is dated October 4, 2010.) I cannot find, therefore, that the Department was incorrect in its denial of SER for rent due to the Claimant's shortfall amount being equal to or greater than the amount needed to resolve the emergency.

2. Heat and Electricity

SER does not assist a group who failed to use their available money to prevent a shelter, energy or utility emergency. A client-caused emergency is when an SER group fails to pay required payments for the six-month period prior to the month of application. Required payments are actual shelter costs or required energy and/or utility payments. Required payments are determined based on the group members in the home during the required payment period. Previously issued SER funds cannot be used to make required payments. ERM 204.

A group size of four is eligible for energy services when the combined monthly net income that is received or expected to be received does not exceed the monthly income standard of \$3,757.00. ERM 208.

ERM 301 dictates that to receive assistance with electricity and heat, the applicant must have made certain payments. The table found in ERM 301 shows that a group size of four has a required payment of \$120.00 per month.

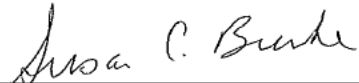
The energy required payment period is the six-month period prior to the month the SER group applies for assistance. Energy required payments are met if the amounts paid by the group for heating fuel and/or electricity equal or exceed the table amounts for the required payment period. If the client fails without good cause to make required payments, a short fall amount is determined. The client must pay the shortfall amount toward the cost of resolving the emergency. ERM 208.

Except for categorical eligibility, a bill does not have to be in the client's name, but it must be connected to the group's current address. If the bill, including old or transferred balances, must be paid to start or maintain service at the current or new address, payment may be authorized up to the fiscal year cap, as long as the payment resolves the emergency.

In the present case, Claimant's group was a group size of four, per the Notice of Case Action dated September 29, 2010 (Exhibit 6). The Department failed to show why Claimant's group had a shortfall equal to or greater than the amount needed to resolve the emergency when: (1) Claimant met the income test - the group's income of \$597.00 is less than the ERM standard of \$3,757.00 for a group size of four; and, (2) Claimant made the required payment. In the six months prior to the SER application, Claimant paid a total of \$355.67 (Exhibit 4-d Payment History) toward the heat and electric bill. Claimant was required to pay \$120.00 per month for a total of \$720.00, which leaves a shortfall of \$364.33. The shortfall amount of \$364.33 was less than \$452.34, the amount requested in her application. (It is noted that Claimant requested help with her heat and electricity in her application, referring to the bill of her daughter, a member of her household, which bill was submitted into evidence along with the application by the Department.). The Department was, therefore, incorrect in its decision that the shortfall amount was equal to or greater than the amount needed to resolve the emergency for the energy services.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was correct issuing the Notice of Overissuance dated October 27, 2010, and in attempting to recoup, correct in its denial of SER for rent due to Claimant's shortfall amount being equal to or greater than the amount needed to resolve the emergency, and incorrect in its decision that the shortfall amount was equal to or greater than the amount needed to resolve the emergency for the energy services. The Department is, therefore, AFFIRMED in part and REVERSED in part. It is ORDERED that the Department shall reprocess the SER application for energy services dated October 4, 2010, and issue a new State Emergency Relief Decision Notice. Claimant may request another hearing if she feels aggrieved by the new Decision Notice.



Susan C. Burke
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 4, 2011

Date Mailed: January 4, 2011

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.

SCB/pf

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