

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201119365
Issue No.: 2000; 3002; 5016
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: March 17, 2011
Wayne County DHS

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 the Claimant's request for a hearing. After due notice, a telephone hearing was held on March 17, 2011. The Claimant was present and testified. The Department of Human Services (Department) was represented by Family Independence worker [REDACTED]

ISSUE

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

Did Claimant file a timely hearing request for Medical Assistance?

Was the Department correct in its calculation of Claimant's State Emergency Relief (SER) for gas grant?

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 FAP recipient in a household of one person.
2. Claimant received \$1,479.00 in gross income per month which consisted of unemployment benefits.

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3. Claimant has an obligation for shelter, utilities and heat.
4. Claimant pays \$234.00 per month for a mortgage obligation.
5. The Department determined that claimant is entitled to \$16.00 in FAP benefits per month.
6. Claimant applied for Medical Assistance (MA) on May 11, 2010.
7. The Department denied Claimant's application for MA on May 11, 2010.
8. Claimant applied for State Emergency Relief for gas on January 21, 2011.
9. On January 27, 2011, the Department determined that Claimant was entitled to a grant amount of \$164.19 for SER --- gas.
10. Claimant requested a hearing on February 4, 2011, contesting the amount of the FAP and SER grants and requesting MA.

CONCLUSIONS OF LAW

Food Assistance Program (FAP)

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) 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 \$1,184.00. This was obtained by subtracting the standard deduction of \$141.00 and the excess shelter amount of \$154.00 from the gross unearned income of \$1,479.00. The amount of a monthly food assistance allotment is established by regulations at 7 CFR 273.10. A household of one person with a net monthly income of \$1,184.00 is entitled to a monthly FAP grant of \$16.00. RFT 260. The Department was therefore correct in its calculation of Claimant's FAP grant.

Medical Assistance (MA)

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM), which includes Reference Tables (RFT).

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days.
BAM 600, p. 4.

In the present case, Claimant requested a hearing, stating in part, "I want Medical . . ." Claimant does not claim that he applied for Medical Assistance since the date of the denial of MA on May 11, 2011. Therefore Claimant's request for hearing was not timely per BAM 600.

State Emergency Relief

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).

ERM 301 regarding energy service instructs:

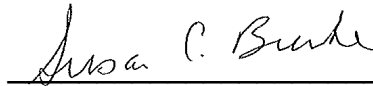
- If all the initial requirements are met, the following apply:
- If the paper application for State Emergency Relief (DHS-1514) has been filed, there must also be an active Assistance Application (DHS-1171) in the case record. If not, one must be completed. If the application is submitted electronically through MIBridges, no additional application is needed.
 - The client must provide a shutoff/reconnect notice, declare a need for deliverable fuel or provide verification of the need for a furnace repair.
 - An SER budget is required.
 - There is no income determination since all household members must be active on the FIP, FAP or SSI case.

ERM 301, p. 3.

In the present case, Claimant applied for SER for gas on January 21, 2011. The Department decided that Claimant was entitled to a grant amount of \$164.19. However, the Department did not present a budget at the hearing, nor did it present other evidence upon which the Department relied in establishing the amount of \$164.29. Without this proof, it cannot be determined whether the Department was correct in its calculation of the SER grant for gas.

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, but incorrect in its calculation of Claimant's SER for gas grant and it is therefore ORDERED that the Department's decision with regard to the FAP grant amount is AFFIRMED and the Department's decision with regard to the SER grant is REVERSED. It is further ORDERED that the Department shall recalculate Claimant's request for SER gas/heat of January 21, 2011, and issue a new State Emergency Relief Decision Notice. Claimant may request a hearing on the new State Emergency Relief Decision Notice, if he is not satisfied with that notice. It is further ORDERED that Claimant's request for a hearing regarding MA is DISMISSED due to an untimely hearing request.



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

Date Signed: April 13, 2011

Date Mailed: April 13, 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.

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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.

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cc:

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