

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

IN THE MATTER OF:

[REDACTED]

Reg. No. 2011-26356
Issue Nos. 2001, 3002, 5016
Case No. [REDACTED]
Hearing Date: May 31, 2011
Wayne (82-15)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED]'s request for a hearing. After due notice, a telephone hearing was held on May 31, 2011. The Claimant appeared and testified. [REDACTED] Eligibility Specialists, appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether DHS denied Medicaid Assistance-Adult Medicaid Program (MA or Medicaid-AMP) benefits to Claimant in accordance with its policies and procedures?
2. Whether DHS provided Food Assistance Program (FAP) benefits to Claimant in accordance with its policies and procedures?
3. Whether DHS denied State Emergency Relief (SER) benefits to Claimant in accordance with its policies and procedures?

FINDINGS OF FACT

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

1. On December 1, 2010, due to lack of funding, DHS closed the MA-AMP program to new applicants.

2. On February 18, 2011, Claimant applied for FAP, AMP and SER benefits with DHS.
3. Claimant is a single individual receiving \$1,496 per month Retirement, Survivors and Disability Insurance (RSDI) benefits from the U.S. Social Security Administration.
4. On February 18, 2011, DHS, using an incorrect income figure, approved Claimant for FAP benefits of \$200 per month effective February 18, 2011.
5. On March 9, 2011, DHS corrected its error and using Claimant's correct income amount of \$1,496, took four actions:
 - a. DHS recomputed Claimant's FAP benefits and reduced her FAP benefits to \$16 per month, effective April 1, 2011.
 - b. DHS denied AMP to Claimant for two reasons, first, the AMP program was closed to new applicants, and second, Claimant's income is more than \$316 per month.
 - c. DHS denied SER benefits for heat and electricity to Claimant, for the reason that her utilities were not shut off and she had not received a shutoff notice from the utility company.
 - d. DHS denied SER water bill assistance to Claimant for the reason that the co-payment DHS required of Claimant was higher than the amount of the debt itself. When this occurs, DHS denies the benefit in its entirety.
6. On March 28, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers the FAP program pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3001- 400.3015. DHS' policies are found in BAM, BEM and RFT. *Id.*

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the U.S. Code of Federal Regulations. DHS administers MA pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

AMP was established by Title XXI of the Social Security Act, Section (1115)(a)(1), and is administered by DHS pursuant to MCL 400.10 *et seq.* DHS' policies are contained in BAM, BEM and RFT. *Id.*

SER was established by 2004 Michigan Public Acts 344. The SER program is administered pursuant to MCL 400.10 *et seq.* and MACR 400.7001- 400.7049. DHS' policies and procedures are found in the Emergency Relief Manual (ERM). *Id.*

BAM, BEM and RFT are the policies and procedures that DHS officially created for its own use. While the manuals are not laws created by the U.S. Congress or the Michigan Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look now, in order to see what policy applies in this case. After setting forth what the applicable manual items are, I will examine whether they were followed in this case.

First, with regard to FAP, DHS testified as to the calculations at the hearing, and I accept her credible and unrebuted testimony that she checked her calculations twice and they are correct. Claimant herself testified that she did not dispute DHS' calculations, but rather, she was concerned about the initial error in her income amount. I find and conclude that DHS has proved by clear and convincing evidence that Claimant's FAP benefits are correct at their current level, and I AFFIRM DHS' action.

Second, I will consider Claimant's AMP application. At the hearing Claimant did not dispute DHS' denial to her of AMP, but rather wished to complain that the process left her confused and frustrated. In this decision I will set forth the applicable legal references that govern the DHS action, which is correct, and which I shall AFFIRM.

In this case the relevant manual item to consider is RFT 236, "AMP Income Levels (By Living Arrangement)." This DHS chart shows the maximum income a family can have to qualify for AMP benefits. RFT 236 states that for one person in an independent living situation, the maximum income allowed is \$316 per month. There is no dispute in this case that Claimant's income exceeds \$316 per month. Accordingly, I must find and conclude that DHS acted in accordance with RFT 236 in denying Claimant AMP benefits. DHS is AFFIRMED.

Third, with regard to Claimant's application for heat and utility assistance, this circumstance is governed by ERM 302, "Utility Services." The DHS' policy, which is stated at the very beginning of ERM 302, is as follows:

SER helps to **restore or prevent shut off** (sic) of a utility service specified in this item when service is necessary to prevent serious harm to SER group members. ERM 302, p. 1 (boldface added for emphasis).

In this case it is undisputed that Claimant was not threatened by a shutoff and had not received a shutoff notice. ERM 302 requires therefore that benefits must be denied. ERM 302, p. 3.

Fourth, with regard to Claimant's application for SER assistance with her water bill, I look to ERM 302 again, and it states that the client is required to pay a certain minimum amount. As this amount was more than the arrearage itself in this case, Claimant's payment would take care of the debt and DHS assistance was not necessary. Accordingly, I AFFIRM DHS' denial of SER benefits to Claimant for her water bill. *Id.*, p. 2.

In conclusion, based on the above findings of fact and conclusions of law, I conclude and determine that DHS is AFFIRMED with regard to reduction of Claimant's FAP benefits, denial of AMP, and denial of SER benefits for utility and water. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, concludes and decides that DHS is AFFIRMED. DHS need take no further action with regard to this matter.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 9, 2011

Date Mailed: June 10, 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 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.

JL/cl

cc:

