

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-30329
Issue Nos.: 3000, 5000
Case No.: [REDACTED]
Hearing Date: May 18, 2011
DHS County: Wayne (82-31)

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] request for a hearing. After due notice, a telephone hearing was held on May 18, 2011. Claimant appeared and testified at the hearing. [REDACTED] appeared and testified as a witness for Claimant. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS determined Claimant's Food Assistance Program (FAP) allotment and Claimant's eligibility for State Emergency Relief (SER) in accordance with DHS 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. In 2011, Claimant received Unemployment Insurance (UI) benefits from the State of Michigan.
2. Also in 2011, Claimant received FAP benefits of \$231 per month from DHS.
3. In about March 2011, when Claimant's UI benefits stopped, DHS removed the UI income from her FAP budget calculations.
4. On April 6, 2011, Claimant applied for SER benefits to assist with property taxes.

5. On April 7, 2011, DHS denied SER benefits for property tax assistance to Claimant for the reason that her property was not subject to a tax sale.
6. On April 13, 2011, Claimant filed a Request for Hearing on the two issues of SER and FAP benefits.
7. At the Administrative Hearing on May 18, 2011, Claimant testified she no longer wished to pursue the SER benefit issue and asked that it be dismissed.
8. Also at the Administrative Hearing, DHS agreed to recalculate Claimant's current FAP benefits based on information produced at the hearing showing that Claimant's husband's SSI benefits of \$354 were closed on April 1, 2011.
9. After hearing DHS' offer, Claimant agreed to it and testified that she no longer wished to pursue her right to an Administrative Hearing.

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 FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules (MACR) 400.3001-400.3015. 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.

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

The DHS manuals are the policies and procedures 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 policy is, I will examine whether it was in fact followed in this case.

Under BAM Item 600, clients have the right to contest any DHS decision affecting eligibility or benefit levels whenever they believe the decision is illegal. DHS provides an Administrative Hearing to review the decision and determine if it is appropriate. DHS policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when DHS receives a hearing request and continue through the day of the hearing.

In this case, the parties stipulated to a settlement agreement whereby DHS will recalculate Claimant's FAP budget, removing her husband's SSI income from her income, and adjust her FAP benefits accordingly. As the parties have reached an agreement, it is not necessary for the Administrative Law Judge to decide the issue presented in this case.

Furthermore, regarding Claimant's SER application, I will honor Claimant's request to dismiss this issue from her case and will do so in this order.

In conclusion, based on all of the findings of fact and conclusions of law, and the stipulated agreement of the parties, I HEREBY ORDER that DHS shall recalculate Claimant's FAP budget, deleting Claimant's husband's SSI income from the calculation of income, and provide Claimant with any appropriate retroactive supplemental benefits. IT IS FURTHER ORDERED that Claimant's SER complaint is DISMISSED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law and the settlement agreement of the parties, orders the following settlement in this case: IT IS ORDERED that DHS shall recalculate Claimant's FAP budget, eliminating Claimant's husband's SSI income from her income, and provide retroactive supplemental FAP benefits as appropriate. IT IS FURTHER ORDERED that Claimant's SER complaint is DISMISSED. All steps shall be taken in accordance with DHS policies and procedures.

IT IS SO ORDERED.



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

Date Signed: May 24, 2011

Date Mailed: May 26, 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

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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.

JL/pf

cc:

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