

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-4676
Issue No.: 3002/5000
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: December 8, 2010
Office: Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 December 8, 2010. The claimant appeared and testified; [REDACTED] appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUES

1. Whether Claimant is entitled to more than the maximum issuance of Food Assistance Program (FAP) benefits for a one-person FAP group.
2. Whether Claimant is entitled to a hearing concerning State Emergency Relief (SER) when Claimant never applied for SER assistance.

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 benefit recipient.
2. Claimant is part of a FAP group of one person.
3. On an unspecified date, DHS approved Claimant for \$200/month in FAP benefits effective 3/2010 (FAP benefits likely pro-rated for 3/2010).
4. Claimant never applied for SER assistance from DHS for help with housing or utilities.

5. On 10/28/10, Claimant requested a hearing for “food assistance, cash assistance, medical assistance, housing assistance and utility assistance”.

CONCLUSIONS OF LAW

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) 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).

Claimant testified that he receives \$200/month in FAP benefits but contends that this amount is insufficient. Claimant specifically contends that his medical conditions are such that he needs special foods which are more costly than traditional foods.

Claimant's contentions are simply irrelevant. There is no basis within DHS regulations to issue FAP benefits based on the specific diet of an individual. The only relevance to a client's FAP benefits is the group size, the group income and the group's obligations. Claimant concedes that he is a FAP group of one. The undersigned need not determine whether DHS properly determined Claimant's FAP benefits as Claimant receives \$200/month in FAP benefits. \$200/month in FAP benefits is the maximum FAP benefit issuance for a one-person group. RFT 260 at 1. There is no basis in DHS policy to increase this amount. It is found that Claimant is not entitled to any FAP benefits beyond the \$200/month maximum amount allowed by DHS regulations.

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 (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization.

BAM 600 lists the circumstances in which a hearing may be granted. The circumstances are: denial of an application and/or supplemental payments, reduction in the amount of program benefits or service, suspension or termination of program

benefits or service restrictions under which benefits or services are provided or delay of any action beyond standards of promptness. BAM 600 at 3.

In the present case, Claimant requested a hearing for “housing and utility assistance”. If Claimant meant “housing and utility assistance” to refer to a monthly cash benefit, then there would have been no need to request a hearing for cash benefits and housing and utility benefits. The undersigned can only conclude that “housing and utility assistance” was intended to refer to an application for SER benefits as SER is the DHS program most closely identified to housing and utility benefits. Claimant and DHS agree that Claimant never applied for SER benefits. Claimant is not entitled to a hearing for a program for which DHS never made a decision. The undersigned cannot evaluate a DHS decision that was never made. Claimant’s hearing request is appropriately dismissed concerning “housing and utility assistance”.

Lastly, Claimant requested a hearing for cash and medical assistance. DHS indicated that Claimant’s cash and medical benefits were denied solely on the basis that Claimant was determined to be a non-disabled individual. The State Office of Administrative Hearings and Rules (SOAHR) employs ALJs which are particularly skilled in hearings to determine whether a client is or is not disabled; the undersigned is not so particularly skilled. Claimant’s disputes concerning MA and cash benefits are appropriately left for the determination of a different ALJ for a hearing date yet to be scheduled. Claimant and DHS will receive notice of the yet to be scheduled hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant is not entitled to a hearing for SER assistance as Claimant never applied for SER assistance and thus, cannot dispute a DHS action that was never taken. Claimant’s hearing request concerning housing and utility assistance is partially DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant is receiving the maximum amount of FAP benefits available and is not entitled to any additional FAP benefits. The actions taken by DHS are partially AFFIRMED

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The Administrative Law Judge makes no findings concerning the DHS denial of Claimant's application for SDA and MA benefits. The issues of Claimant's MA and SDA benefits will be rescheduled for a future hearing.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/13/2010

Date Mailed: 12/13/2010

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 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.

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