

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

IN THE MATTER OF:



Reg. No.: 2011-53499
Issue No.: 3008, 5032
Case No.: [REDACTED]
Hearing Date: October 18, 2011
County: Wayne

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on October 18, 2011, from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUES

1. Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with shelter emergency?
2. Did the Department timely and properly determine Claimant's FAP allotment after Claimant reported a change in income?

FINDINGS OF FACT

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

1. Claimant was receiving FAP at all relevant times.
2. On August 10, 2011, Claimant applied for SER assistance with shelter emergency.
3. On August 23, 2011, the Department sent notice of the application denial to Claimant.
4. On July 6, 2011, Claimant reported to the Department that she had lost her job at the Detroit Public Schools and that her last day of employment was June 17, 2011. (Claimant's Exhibit 2).

5. The Department increased Claimant's FAP effective September 1, 2011.
6. On September 9, 2011, the Department received Claimant's hearing request, protesting the SER denial and the Department's failure to budget her FAP beginning in August, 2011 rather than September 1, 2011.

CONCLUSIONS OF LAW

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, 1993 AACS R 400.7001-400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Housing affordability is a condition of eligibility for SER and applies to relocation services. ERM 207. The Department will authorize SER for services only if the SER group has sufficient income to meet ongoing expenses. ERM 207. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. ERM 207. The Department will deny SER if the group does not have sufficient income to meet their total housing obligation. ERM 207. The total housing obligation cannot exceed 75 percent of the group's total net countable income. ERM 207.

Here, Claimant applied for SER seeking relocation assistance following a house fire. However, Claimant testified that at the time of application, she was unemployed as she had lost her job with the Detroit Public School System. Because Claimant did not have any income, she could not meet her total housing obligation. Therefore, Claimant was not eligible for SER.

The Food Assistance Program (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 (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACS R 400.3001-3015.

For FAP, department policy requires that the department must act on a change reported by means other than a tape match within 10 days after being aware of the change. BAM 220. Here, Claimant reported the change in May, 2011 but did not provide the Department with verification that she lost her job until July, 2011. However, the Department failed to act on the change within the standard of promptness, which would have been effective August, 2011. Instead, the Department waited until September 1, 2011 to effectuate the change which resulted in an increase in Claimant's FAP.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly denied Claimant's application for SER assistance with shelter emergency. However, the Department did not timely act when Claimant reported a change in FAP.

DECISION AND ORDER

The Department's actions in this matter are REVERSED-IN-PART and AFFIRMED-IN-PART.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record and above, finds that the Department did act properly when it denied Claimant's SER application for assistance with shelter emergency. Accordingly, the Department's decision with regard to Claimant's SER application is AFFIRMED for the reasons stated above.

With regard to Claimant's FAP, the Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record and above, finds that the Department did not act properly. Accordingly, the Department's decision with regard to Claimant's FAP is REVERSED for the reasons stated on the record and above. THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

The Department shall provide Claimant with supplemental FAP benefits for the month of August, 2011 provided Claimant is otherwise eligible.

C. Adam Purnell
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 10/31/11

Date Mailed: 10/31/11

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
- misapplication of manual policy or law in the hearing decision,
- typographical errors, mathematical error , or other obvious errors in the hearing decision that effect the substantial rights of the claimant;
- the failure of the ALJ to address other relevant issues in the hearing decision

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CAP/ds

