

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201217552
Issue No: 5030, 3002
Case No: [REDACTED]
Hearing Date: January 4, 2012
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was held on January 4, 2012. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly deny Claimant's State Emergency Relief (SER) application for assistance with his security deposit and did the department properly determine the amount of Food Assistance Program (FAP) benefits the claimant is entitled to receive?

FINDINGS OF FACT

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

1. On October 19, 2011, the claimant filed an SER application for assistance with a security deposit on a new apartment.
2. The claimant has been receiving FAP benefits during all times pertinent to this hearing. (Department Exhibits 6A-6E).
3. The claimant's SER application was denied on October 25, 2011 because it was determined that his copayment was equal to or greater than the amount needed to resolve the emergency. (Department Exhibits 1A-1C).
4. The claimant filed a request for hearing on December 8, 2011 protesting the SER decision and the amount of FAP benefits allocated.

CONCLUSIONS OF LAW

As a preliminary matter, the claimant indicated in his hearing request that he was requesting a hearing regarding his FAP case and SER application. MAC 400.903 lays out instances where recipients of assistance have a right to an administrative hearing within the Michigan DHS. This rule specifies when an opportunity for a hearing shall be granted:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance. MAC 400.903(1).

At the time of the hearing, the department had not taken any action to reduce, suspend, or terminate the claimant's FAP benefits. Additionally, at the time of the hearing the claimant stated that based on this information, he did not want to proceed with the FAP portion of the hearing and that he simply wanted to be heard regarding the SER portion. Accordingly, the FAP portion of the hearing is hereby dismissed.

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 (DHS or department) policies are found in the Emergency Relief Manual (ERM).

State Emergency Relief prevents serious harm to individuals and families. SER assists applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101.

SER is available to assist individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303. The

maximum amount that can be issued to a group of one for relocation expenses is \$410.00. ERM 303.

If a claimant otherwise meets all eligibility standards, they may be required to make a contribution to the amount of the requested service based on their income before the department will issue a payment. ERM 208. Department policy states:

Client Contribution

The SER group must contribute toward the cost of resolving the emergency if SER does not cover the full cost of the service. Other persons or organizations can also contribute funds on behalf of the SER group. Verification that the contribution has been paid must be received before any SER payment can be made. ERM 208.

With respect to income and any potential co-payment policy states as follows:

Income Copayment

A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in [Exhibit I](#), SER Income Need Standards for Non-Energy Services. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. This is the income copayment. ERM 208.

In the case at hand, the department determined that the claimant would have a co-payment of [REDACTED] based on the claimant's income from RSDI and Worker's Compensation. The totally amount that was requested for relocation expenses was [REDACTED]. Because the amount of the co-payment exceeded the amount needed, the department denied the claimant's SER application. However, at the hearing the department testified that there were no deductions included in the budget for the claimant (see Department Exhibit 3B). The claimant testified that he does in fact pay child support and that said amount was not included in his budget. The department worker testified that the department was aware that the claimant paid child support and that the amount was not used in calculating the claimant's budget. Because this amount should have been deducted from the claimant's budget for SER determination purposes, this Administrative Law Judge finds that the department improperly determined that the claimant was not eligible for SER benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted improperly in accordance with policy in denying the claimant's SER application.

Accordingly, the department's actions are **REVERSED**.

It is HEREBY ORDERED that the department shall re-process the claimant's SER application using any available deductions that the claimant is entitled to receive.

It is FURTHER ORDERED that the FAP portion of the claimant's hearing request is **DISMISSED** for lack of jurisdiction because at the time of the hearing request, the department had not taken any action to suspend, reduce or terminate the claimant's FAP benefits.

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 10, 2012

Date Mailed: January 11, 2012

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.

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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