

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201224789  
Issue No: 3015, 5100  
Case No: [REDACTED]  
Hearing Date: February 28, 2012  
Macomb 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 February 28, 2012. Claimant personally appeared and provided testimony.

**ISSUES**

1. Whether the department properly determined that Claimant was not eligible for Food Assistance Program (FAP) benefits due to excess income?
2. Whether the department properly denied the claimant's application for State Emergency Relief (SER)?

**FINDINGS OF FACT**

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

1. The claimant was a recipient of FAP benefits.
2. In October, 2011, the claimant submitted an application for State Emergency Relief (SER) benefits.
3. The claimant's SER application was denied and he was sent notice of such on November 3, 2011. (Department Hearing Summary).
4. The claimant's FAP case was closed due to the claimant exceeding the income limit. The claimant was sent notice of such on December 14, 2011. (Department Hearing Summary).

5. The claimant filed a hearing request on December 20, 2011, protesting the closure of his FAP case and the denial of his SER application.

### **CONCLUSIONS OF LAW**

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).

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

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 of Human Services (DHS or department) 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 Bridges Reference Manual (BRM).

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).

For FAP purposes, all earned and unearned income available to Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMP), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

In the case at hand, the claimant testified that he did not believe that the department properly calculated his income because the income amount used by the department did not reflect the amount he actually brings home. However, policy does direct that the department is to use gross income in determining eligibility. Based on the pay stubs submitted by the claimant, the department calculated the claimant's monthly income. The monthly income calculated by the department (after deductions were given) exceeds the income limit for the claimant's group size. Therefore, the department properly determined that the claimant was not eligible for FAP benefits due to the claimant exceeding the income limit.

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.

In relation to the claimant's SER application, the department did not provide copies of the notice of case action sent to the claimant nor any other department generated documents pertaining to the claimant's SER application. The testimony offered at the hearing by the department indicates that the claimant's SER application was denied because the claimant had entered into a shut off protection plan with DTE (the claimant's electricity provider) and that based on the claimant entering into such a plan, the emergency was resolved. However, the department also testified that the claimant had been assigned a co-pay amount, which indicates that the claimant's application had been approved subject to the co-pay being made. The department testified that the claimant was required to submit the co-payment by November 26, 2011. The claimant testified that he did make a payment to DTE and that when said payment was made, he was automatically entered into a shut off protection plan; that his admission into the plan was not voluntary. The claimant further testified that he did not receive any notice informing him that he was assigned a copayment amount.

The department representative testified that the claimant's application was denied due to him entering the shut off protection plan and therefore resolving the emergency but that in the alternative, the claimant's application would also have been denied because the total co-payment was not made. However, as stated previously, no notice of decision on the SER application was provided by the department, or any document indicating that a co-payment was required. ERM 208 states that there are no co-payments for SER energy services. The claimant applied for assistance with his energy through DTE. The testimony that the claimant was assigned a co-pay amount conflicts with what is stated in policy as to co-payments and energy services. Based on the testimony provided and the evidence contained in the record, this Administrative Law Judge cannot reconcile the specific reasons for denial or the reason for the claimant being assigned a co-pay amount. Therefore, the Administrative Law Judge determines that the department did not properly deny the claimant's SER application.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in determining Claimant's FAP eligibility. However, the Administrative Law Judge determines that the department did not act properly in denying the claimant's SER application.

1. The department's FAP eligibility determination is **AFFIRMED**. It is SO ORDERED.
2. The department's SER application determination is **REVERSED**. It is HEREBY ORDERED that the department shall reprocess the claimant's SER application in accordance with policy as of the date the application was submitted.

/s/

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

Date Signed: March 9, 2012  
Date Mailed: March 12, 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 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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