

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201252340
Issue No: 5020
Case No: [REDACTED]
Hearing Date: June 21, 2012
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 Thursday, June 21, 2012. Claimant appeared and testified.

ISSUE

Did the Department of Human Services properly determine Claimant's financial eligibility for State Emergency Relief (SER) services?

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 a State of Michigan employee and added her live in partner onto her medical insurance coverage. The [REDACTED] per pay period for her [REDACTED] medical insurance is reflected in her pay record as income.
2. On April 11, 2012, Claimant submitted an application for State Emergency Relief (SER).
3. On April 18, 2012, Claimant was sent a Decision Notice State Emergency Relief (DHS-1419) denying her application due to excess income.
4. On May 3, 2012, Claimant submitted a request for hearing.

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 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 State Emergency Relief Manual (SER).

In this case the Claimant's single concern is the [REDACTED] per pay period amount the State is counting as income for her. Claimant testified that she does not receive the money it is used to pay for her [REDACTED] health insurance. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

BEM 501 INCOME FROM EMPLOYMENT

DEPARTMENT POLICY

All Types of Assistance (TOA)

This item identifies both of the following:

- Which income types are considered earned.
- Which earned income types are excluded or counted for each TOA.

WAGES

All TOA

Wages are the pay an employee receives from another individual or organization. Wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance.

Enter an employee's regular wages paid during a vacation or illness as earned income.

Enter a wage advance as earnings when the employer actually pays it. Do **not** count the money withheld to offset the advance.

Enter wages held by the employer at the request of the employee. Bridges will count as earnings. However, wages held as a general practice by the employer are **not** income until actually paid, and should not be entered in Bridges until anticipated or received.

Flexible Benefits

Some employers give employees a flexible benefit allowance from which they may choose to purchase health insurance.

Flexible benefit amounts used to purchase insurance are excluded as income. Do not enter such amounts in Bridges.

Include any flexible benefit payments included in an individual's paycheck and **not** used to purchase insurance, in the amounts entered in pay details. They are considered wages.

The [REDACTED] is identified as "FMV OEAI Benefits" in Claimant's pay statements. No evidence was entered into the record showing what the proper name of the benefit is. Based on Claimant's testimony it fits the description of flexible benefits in Bridges Eligibility Manual 501, cited above. If the [REDACTED] is in fact a flexible benefit amount which is used to purchase health insurance, it should not be included as income in Claimant's financial eligibility budgets.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the evidence in this record is not sufficient to determine if the Department of Human Services properly determined Claimant's financial eligibility for State Emergency Relief (SER) services. Therefore, the Department's action cannot be upheld.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **REVERSED**.

It is further ORDERED that Claimant's eligibility for State Emergency Relief (SER) be re-determined once the [REDACTED] FMV OEAI Benefits is specifically identified. Because of the time sensitive nature of State Emergency Relief (SER) services this financial eligibility re-determination may need to be applied to a new or more recent application.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 5, 2012

Date Mailed: July 10, 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.

201252340/GFH

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.

GFH/tb

cc:

