

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201262129
Issue No.: 3014, 5026
Case No.: [REDACTED]
Hearing Date: July 30, 2012
County: Macomb DHS (12)

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 following Claimant's request for a hearing. After due notice, a telephone hearing was held on July 30, 2012 from Detroit, Michigan. Participants included the above named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly denied Claimant's application for Food Assistance Program (FAP) benefits for excess assets, in part, by including Claimant's fiancé's assets in the determination.

The second issue is whether DHS properly denied Claimant's application for State Emergency Relief due to Claimant's failure to establish an emergency.

FINDINGS OF FACT

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

1. On an unspecified date, Claimant applied for FAP benefits.
2. Claimant was part of a FAP benefit group that included her fiancé.
3. Claimant's fiancé had over \$5,000 in cash assets.
4. On 6/21/12, DHS denied Claimant's application for FAP benefits due to excess assets.

5. On an unspecified date, Claimant applied for SER assistance for help paying a rent arrearage.
6. Claimant's landlord has not begun any eviction proceedings against Claimant.
7. On an unspecified date, DHS denied Claimant's SER application due to a lack of emergency.

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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). Updates to DHS regulations are found in the Bridges Policy Bulletin (BPB).

FAP group composition is established by determining all of the following: who lives together, the relationship(s) of the people who live together, whether the people living together purchase and prepare food together or separately and whether the person(s) resides in an eligible living situation. BEM 212 at 1. The relationship(s) of the people who live together affects whether they must be included or excluded from the group. *Id.* First, DHS is to determine if they must be included in the group. *Id.* If they are not mandatory group members, then DHS is to determine if they purchase and prepare food together or separately. *Id.*

The phrase, "purchase and prepare" together, is meant to describe persons who customarily share food in common. *Id.* at 5. Persons customarily share food in common if:

- they each contribute to the purchase of food;
- they share the preparation of food, regardless of who paid for it;
- they eat from the same food supply, regardless of who paid for it. *Id.*

In general, persons who live together and purchase and prepare food together are members of the FAP group. *Id.*

Claimant contended that DHS should not have included her fiancé in the FAP benefit denial. Claimant's fiancé's inclusion in the FAP group is pivotal because the application was ultimately denied due to his assets.

Claimant responded affirmatively on her Assistance Application to a question concerning whether she buys and prepares food with her fiancé. Claimant attempted to clarify her written answer with testimony that she and her fiancé shop for food separately and keep their food separately. Claimant's testimony is dubious. It is highly

improbable that a couple engaged to be married would not share food in common, not share in the preparation of food or not eat from a common food supply. The mere relationship between Claimant and her fiancé is fairly persuasive evidence that they purchase and prepare food together. Claimant's affirmative application response to the purchase and prepare question is equally persuasive evidence that DHS had no reason to think that Claimant and her fiancé would have purchased and prepared food separately. It is found that DHS properly determined Claimant's FAP benefit eligibility based on a two person group including Claimant's fiancé.

The FAP benefit program has a \$5,000 countable asset limit (see BEM 400). It was not disputed that Claimant's fiancé had over \$5,000 in countable cash assets. Accordingly, it is found that DHS properly denied Claimant's FAP benefit application due to excess assets.

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 assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 at 1. SER applications involving relocation may only be approved if all other SER criteria are met and one of the following circumstances exists:

- The SER group is homeless;
- The SER group is potentially homeless;
- Adequate housing is needed to avoid foster care placement of a child;
- It is determined that a family must be relocated from unsafe housing for the protection of children
- SER group receives final notice to vacate condemned housing
- It is determined that the SER group lives in high-energy housing that cannot be rehabilitated. *Id.* at 3.

An eviction, judgment, or court order from the client's last residence is an acceptable verification to establish homelessness. *Id.* at 4. An eviction order or court summons regarding eviction is one of the acceptable listed verifications to establish potential homelessness (see ERM 303 at 4). Being behind in rent, even if verified, is not an acceptable verification of potential homelessness

Claimant conceded that her landlord had not commenced legal eviction proceedings against her. Claimant did not even contend that she was behind in her rent, only that she expects to be evicted soon because of a lack of income to pay rent. Though it is utterly understandable that Claimant would be worried about losing her residence, her circumstances do not yet meet the emergency requirements for SER consideration.

Claimant is encouraged to reapply for SER if she receives a summons for eviction proceedings. It should also be noted that SER has many other requirements other than establishment of an emergency; thus, a future SER application is not guaranteed for approval merely because an emergency exists.

It is found that Claimant failed to establish a basis for emergency justifying SER assistance with rent arrearage. Accordingly, the denial of Claimant's SER application was proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's applications for FAP and SER benefits. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 1, 2012

Date Mailed: August 1, 2012

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. (60 days for FAP cases)

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.

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.

201262129/CG

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

CG/hw

cc:

