

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

**IN THE MATTER OF:**



Reg. No.: 201267237  
Issue No.: 3002; 5013  
Case No.: [REDACTED]  
Hearing Date: August 29, 2012  
County: Wayne (57)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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 August 29, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Manager.

**ISSUE**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

Did the Department properly deny Claimant's May 15, 2012, and June 11, 2012 State Emergency Relief (SER) applications?

**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 applied for FAP benefits in April 2012 and was approved for \$45 in monthly FAP benefits.
2. Claimant filed SER applications for assistance with rent eviction on May 5, 2012, May 15, 2012, and June 11, 2012.
3. Claimant's SER applications were denied.

4. On July 24, 2012, Claimant filed a request for hearing concerning the amount of her FAP benefits and denial of her SER applications.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 Mich Admin Code, R 400.3001 through R 400.3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3151 through R 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through R 400.5015.

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 Mich Admin Code, R 400.7001 through R 400.7049.

#### FAP Benefits

Claimant requested a hearing concerning the calculation of her monthly FAP benefits of \$45. At the hearing, the Department presented no FAP net income budgets showing the calculation of Claimant's monthly FAP benefits and testified that Claimant's FAP case had closed effective August 1, 2012, for excess income.

Although the Department did not present any FAP budgets, it appears that the Department considered Claimant's employment income from the job she stopped working at as of March 26, 2012, even though Claimant applied for FAP benefits in April 2012, after she had stopped working and informed the Department that she was no longer working. The Department is required to verify income at application and must also verify income that stopped within the 30 days prior to the application date. BEM 505 (December 1, 2010), p 11. Claimant did not recall being requested to provide verification of termination of employment at the time of her application. However, because the Department approved Claimant's application, it presumably received the required verifications. Claimant further testified that on April 16, 2012, she found employment working up to 20 hours per week at \$8 per hour. On July 16, 2012 she started a new job working 40 hours per week at \$9 per hour. Because the Department did not present monthly FAP budgets showing the amount of earned income used to calculate Claimant's FAP benefits for April 2012, ongoing, the Department failed to satisfy its burden of showing that it calculated the FAP benefits in accordance with Department policy.

#### SER Applications

Claimant applied for SER assistance requesting assistance with her rent eviction on May 4, 2012, on May 15, 2012 and on June 11, 2012. The first application was denied because Claimant did not have a notice of eviction. See ERM 303 (June 1, 2010), p 5. Claimant reapplied for SER assistance on May 15, 2012, and included her eviction notice. SER applications must be processed within 10 calendar days. ERM 103 (May 1, 2012), p 5. Claimant testified that when she did not receive a timely response to the May 15, 2012, application, she contacted her worker to find out the status. Claimant admitted that when she spoke to her worker, she believed that her eviction was imminent and she advised the worker that he might as well deny her application. In effect, Claimant's comments served as a withdrawal of the application. See ERM 103 (May 1, 2012), p 3.

Claimant testified that her landlord subsequently informed her that he would give her an additional month to make required payments to avoid eviction. Claimant called her worker who advised her to reapply. On June 11, 2012, Claimant reapplied, seeking SER assistance of \$1510 to avoid the eviction.

On June 26, 2012, the Department denied the June 11, 2012 application, stating that Claimant's income/asset copayment exceeded the amount needed to resolve the emergency. To calculate an income copayment, the Department subtracts (i) the SER group's total net monthly income over the SER income need standard for non-energy services from (ii) the cost of resolving the emergency. BEM 208 (October 1, 2011), p 1. The Department must deny a SER application when the client's copayment exceeds the amount needed to resolve the emergency. ERM 103 (May 1, 2012), p 4; ERM 208, pp 1-2.

In this case, the Department did not present a SER budget showing the calculation of Claimant's income copayment. At the hearing, the Department testified that Claimant's net countable income consisted of earned income totaling \$2267. However, the Department was unable to establish the basis it used to determine this income. Claimant credibly testified that when she filed the June 11, 2012, SER application she was working up to 20 hours per week at \$8 per hour, which results in monthly earned income considerably less than \$2267. Furthermore, while the Department testified that Claimant was eligible for a \$566.76 mandatory tax deduction from her earned income, it did not establish that it subtracted the income need standard for Claimant's SER group size in calculating her income copayment. [See ERM 206 (October 1, 2011), p 5; ERM 208, p 1]. In light of these facts, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's June 11, 2012 SER application on the basis that her income copayment exceeded the amount of the emergency.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did act properly when

did not act properly when it (i) failed to satisfy its burden of showing that it calculated Claimant's FAP benefits in accordance with Department policy and (ii) denied Claimant's June 11, 2012 SER application.

Accordingly, the Department's decision is  AFFIRMED  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:

1. Recalculate Claimant's FAP budget for April 2012, ongoing, in accordance with Department policy and consistent with this hearing decision;
2. Issue supplements to Claimant for any FAP benefits she was eligible to receive but did not from April 2012, ongoing;
3. Reregister Claimant's June 11, 2012 SER application;
4. Begin reprocessing the application, in accordance with Department policy and consistent with this hearing decision;

5. Issue SER benefits on Claimant's behalf that Claimant is eligible to receive, in accordance with Department policy; and
6. Notify Claimant in writing of its decision, in accordance with Department policy.



**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: September 5, 2012

Date Mailed: September 5, 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.

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

ACE/hw

cc:

