

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

IN THE MATTER OF:



Reg. No.: 201268450
Issue No.: 3008; 5012
Case No.: [REDACTED]
Hearing Date: October 4, 2012
County: Wayne (49)

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 October 4, 2012, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits on the basis that Claimant failed to provide requested verifications?

Did the Department properly deny Claimant's application for State Emergency Relief (SER) benefits on the basis that his housing was unaffordable?

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 July 10, 2012, Claimant applied for FAP benefits and included his April 2012 paystub with the application.
2. On July 12, 2012, the Department sent Claimant a Verification Checklist (VCL) seeking pay information for the preceding thirty days.
3. On July 16, 2012, Claimant submitted his May 2012 paystub.

4. On July 16, 2012, the Department sent Claimant's employer a Verification of Employment seeking income information.
5. On July 25, 2012, the employer submitted an incomplete VOE which did not include income information.
6. On July 25, 2012, the Department sent Claimant a Notice of Case Action notifying him that his FAP application was denied on the basis that he had failed to provide requested information.
7. On July 18, 2012, Claimant applied for SER assistance for a security deposit for a new residence.
8. On July 25, 2012, the Department sent Claimant a SER Decision Notice denying the application on the basis that the housing was not affordable.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services State Emergency Relief Manual (ERM).

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. Department policies are found in the.

FAP Application

In connection with Claimant's July 10, 2012, FAP application, the Department sent Claimant a July 12, 2012, Verification Checklist (VCL) seeking the last 30 days pay information by July 23, 2012. On July 16, 2012, Claimant submitted a paystub for May 2012. The Department worker credibly testified that she spoke to Claimant and advised him that she needed income information for the preceding thirty days and Claimant informed her that he would try to provide his paystub for June 2012. To assist Claimant, the worker testified that she also tried contacting the employer herself, who did not respond to her calls. She also sent the employer a Verification of Employment (VOE). While the employer responded to the VOE on July 25, 2012, its response was incomplete because it did not include any income information. The Department sent Claimant a July 25, 2012, Notice of Case Action denying his FAP application on the basis that he had failed to verify requested information.

At the hearing, Claimant testified that was paid on a monthly basis and while he credibly testified that he was not consistently paid at the same time each month, he could not verify whether he had been paid by July 23, 2012, the due date of the VCL, for his June 2012 employment. The Department worker credibly testified that, when she told Claimant that the paystub he submitted on July 16, 2012, was not responsive to the VCL and he needed to submit a paystub for June 2012, Claimant told her that he would try to do so and did not inform her that he had not been paid for June 2012 or did not have a June 2012 paystub. Under these facts, the Department acted in accordance with Department policy when it denied Claimant's FAP application for failure to verify requested information.

SER Application

On July 18, 2012, Claimant filed a request for SER assistance after his home had burned down. Claimant request assistance with the security deposit and first month's rent on his proposed new apartment. On July 25, 2012, the Department sent Claimant

a SER Decision Notice denying the application on the basis that the housing was not affordable.

Housing affordability is a condition of eligibility for SER benefits for housing relocation services, which include payment of a security deposit and first month's rent, and requires consideration of the income that a client will receive or is expected to receive during the 30 day countable period beginning on the date the SER application is received by the local office. ERM 206 (October 1, 2011), p 1; ERM 207 (April 1, 2011), p 1; ERM 303 (June 1, 2010). For housing to be affordable, the client's rent must not exceed 75% of the group's total net countable income. ERM 207, pp 1-2.

In this case, the Department testified that it relied on income information it had available for Claimant, in this case from Claimant's April 2012 and May 2012 paystubs, to determine his anticipated income for the 30 day period beginning July 18, 2012. The Department's budget shows that, at the time of his SER application, Claimant had net countable income of \$552 and adjusted net countable income of \$414. However, Claimant's April 2012 and May 2012 paystubs showed gross income of \$736 and \$1180.30, respectively. The Department could not explain how it calculated Claimant's income for the SER budget based on this income information. Thus, the Department failed to satisfy its burden of establishing that it acted in accordance with Department policy in concluding that Claimant's housing was unaffordable based on his income and denying Claimant's SER application on this basis.

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 it denied Claimant's FAP application.

did not act properly when it failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's SER application on the basis that his housing was not affordable.

Accordingly, for the reasons stated on the record and above, the Department's decision is AFFIRMED REVERSED AFFIRMED IN PART with respect to denial of Claimant's FAP application AND REVERSED IN PART with respect to denial of Claimant's SER application.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's July 18, 2012, SER application;
2. Begin reprocessing the application in accordance with Department policy;
3. Issue supplements for any SER benefits Claimant was eligible to receive but did not; and

4. 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: 10/12/2012

Date Mailed: 10/12/2012

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:

