

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

IN THE MATTER OF:



Reg. No.: 201322211
Issue No.: 5026, 3003
Case No.: [REDACTED]
Hearing Date: May 9, 2013
County: Oakland DHS (02)

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 May 9, 2013, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The issue is whether DHS properly denied Claimant's application for State Emergency Relief (SER) because Claimant's copayment exceeded the amount needed to resolve the emergency.

The second issue is whether DHS made proper consideration in determining Claimant's Food Assistance Program (FAP) benefit eligibility.

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 12/5/12, Claimant applied for SER for help with a \$517 rent arrearage.
2. Claimant had gross income of \$1344.90/month in Retirement, Survivors, Disability Insurance (RSDI).
3. Additionally, Claimant received \$230.44 and \$104.64 in monthly pension gross income.

4. Claimant had an income copayment of \$1050.70.
5. On 12/10/12, DHS denied Claimant's SER because her copayment exceeded the amount to resolve her rent emergency.
6. Claimant failed to report medical expense obligations to DHS.
7. On an unspecified date, DHS determined Claimant's FAP benefit eligibility without factoring Claimant's obligations for: life insurance, food, medical expenses and cleaning supplies.
8. On an unspecified date, DHS determined Claimant's FAP benefit eligibility, in part, based on Claimant's gross monthly income.
9. On 1/2/13, Claimant requested a hearing to dispute the SER denial and the FAP benefit determination which failed to factor Claimant's net income and the above noted expenses.

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 (formerly known as the Family Independence Agency) policies are found in the Emergency Relief Manual (ERM).

SER is a program which offers assistance for various client emergencies. Clients may seek assistance through SER for any of the following: heat or gas bills, water bills, electricity bills, home repairs, rent or mortgage arrearages, relocation expenses including rent and security deposit, food, burials or migrant hospitalization.

The present case concerned an SER application request help with a rent arrearage. DHS denied Claimant's application based on the copayment and/or shortfall exceeding the amount requested. It was not disputed that Claimant's request sought \$517 for rent.

A group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in SER Income Need Standards for Non-Energy Services. ERM 208 (8/2012), p. 1. Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. *Id.* This is the income copayment. *Id.*

Based on Claimant's household size of 1, the income need standard for non-energy services is \$445. *Id.*, p. 4. It was not disputed that Claimant's household income was \$1679.98.

Claimant contended that DHS should have factored her net income, not gross. For purposes of SER eligibility, Claimant is correct. The above policy notes that net income, not gross is the proper consideration.

Claimant did not specify the amount of her net income. Claimant testified that her gross income was reduced for taxes and insurance premiums. Based on submitted documentation, Claimant's net income appears to be: \$1245 in RSDI, \$146.06 for one pension and \$104.64 for another pension. Thus, Claimant's total monthly net income was \$1495.70. Based on an income standard of \$445, Claimant's income copayment should have been calculated to be \$1050.70. The income copayment exceeded the amount requested for SER. Thus, it is found that DHS properly denied Claimant's SER application.

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).

Claimant also disputed a FAP benefit determination by DHS. Claimant was given the option of going through the FAP budget, but declined. Instead, Claimant made specific arguments concerning how FAP eligibility is calculated.

Claimant contended that DHS should have factored the following expenses into the FAP budget: life insurance, car insurance, food and cleaning supplies. These expenses are simply irrelevant to a FAP benefit determination (see BEM 554). Thus, DHS properly excluded these expenses in the FAP benefit determination.

Claimant also contended that DHS failed to factor Claimant's medical expenses in the FAP benefit determination. DHS failed to provide a FAP benefit budget so it is uncertain whether DHS factored medical expenses. For purposes of this decision, it is presumed that DHS is not budgeting Claimant's medical expenses.

Medical expenses are a relevant consideration for persons over 60 years old (Claimant was over 60). Though DHS is obliged to factor medical expenses, Claimant has a responsibility to report expenses.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (9/2012), p. 1. Non income changes must be reported within 10 days after a client is aware of them. *Id.*

In the present case, it was verified that Claimant failed to list any medical expenses on her most recently submitted FAP redetermination submission. This is exceptionally

persuasive evidence that DHS properly excluded a consideration of medical expenses in the FAP benefit determination.

Despite Claimant's failure to report the expenses, DHS had verification of medical expenses. Claimant's income verifications, which DHS possessed, listed that Claimant had a Medicare premium. Other premiums were noted on Claimant's pension documentation. Though DHS had verification of expenses, it is still Claimant's obligation to alert DHS to the expenses. If Claimant does not bother to list the expenses on redetermination documentation, DHS cannot be faulted for not checking Claimant's income verifications for medical expenses. It is found that DHS properly did not factor medical expenses due to Claimant's failure to report them.

Lastly, Claimant alleged that DHS should have factored her gross income for purposes of FAP eligibility. It was not disputed that Claimant's RSDI was reduced for a Medicare premium and one pension was reduced for insurance premiums and taxes.

For retirement income (i.e. pensions), DHS is to count the gross benefit as unearned income. *Id.*, p. 22. Bridges (the DHS database) counts the gross benefit amount as unearned income. BEM 503 (11/2012), p. 21. DHS policy notes RSDI exceptions to using gross income, but none are applicable to Claimant's case.

It should also be noted that DHS has different policies for different programs. Thus, net income was relevant to SER eligibility, gross income is relevant to FAP benefit eligibility. Based on the presented evidence, it is found that DHS properly counted Claimant's gross income in the FAP benefit determination.

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 SER application and made proper considerations in the FAP benefit determination. The actions taken by DHS are AFFIRMED.



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

Date Signed: 5/17/2013

Date Mailed: 5/17/2013

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

CG/hw

cc:

