

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201328655
Issue No.: 3003, 5020
Case No.: [REDACTED]
Hearing Date: March 14, 2013
County: Wayne (#19)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted from Detroit, Michigan on Thursday March 14, 2013. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Family Independence Specialist) and [REDACTED] (Eligibility Specialist).

ISSUE

Whether the Department properly decreased Claimant's Food Assistance Program (FAP) benefits; and properly denied Claimant's application for State Emergency Relief (SER)?

FINDINGS OF FACT

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

1. The Claimant is a FAP Recipient with a group size of 2.
2. On January 24, 2013, Claimant submitted an application for SER (energy services).
3. Claimant receives \$1273.00 monthly in employment income, based on the verified weekly earnings. (Exhibit 2 & 3)
4. Claimant receives \$718.82 monthly in underemployment compensation benefits effective as of November 18, 2012. (Exhibit #4)

5. On January 25, 2013, the Department sent Notice of Case Action informing Claimant that her FAP benefits would decrease to \$16.00 effective March 1, 2013 due to increased income; (Exhibit 7) and the SER application was denied due to excess income. (Exhibit 6)
6. On February 4, 2013, the Department received Claimant's written hearing request disputing the action taken based on the income calculations.

CONCLUSIONS OF LAW

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

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 Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. BEM 500 (January 2013), p. 3. All countable earned and unearned income available to the client must be considered in determining the Claimant's eligibility for program benefits. In this case, the Department representative testified that the decrease in FAP benefits and the denial of the SER application was due to Claimant's underemployment income being budgeted, resulting in excess income. The underemployment income was not previously budgeted. Claimant verified that she received the employment income and underemployment compensation benefits that were input into the computer system (which calculated her total monthly income to be \$1,991.00). BEM 556 (July 2011) outlines the proper procedures for calculating benefit eligibility. Claimant testified that her income has decreased because it varies depending on the hours worked. The Department was unaware of any decrease in income at the time benefit eligibility was determined.

A review of the FAP budget shows the Department properly applied the \$148 standard deduction applicable to Claimant's FAP group size of two, the \$575 standard heat and utility deduction available to all FAP recipients, and the proper shelter obligation amount for the Claimant. (Exhibit 5) RFT 255 (October 1, 2012), p 1; BEM 554 (October 1, 2012), pp 11-12. Based on the verified income information on record, the Department established it properly reduced Claimant's FAP benefit allotment to \$16 due to the additional unearned income.

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,

Rules 400.7001 through Rule 400.7049. Department of Human Services', formerly known as the Family Independence Agency, policies are found in the Emergency Relief Manual ("ERM").

SER prevents serious harm to individuals and families by assisting applicants with safe, decent, affordable housing and other essential needs when an emergency situation arises. ERM 101 (October 2011), p. 1. SER helps to restore or prevent shut off of a utility service to include water services. ERM 302 (October 2011), p. 2. SER group members must use their available income and cash assets that will help resolve the emergency. Bridges system determines eligibility or ineligibility for each SER application and service requested. The Department verifies the information, certifies the eligibility results and authorizes the payment if eligible. ERM 208 (October 2011), p. 1. For a group to be eligible for energy services, the combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period, cannot exceed the standard for SER energy/LIHEAP services for the number of group members. If the income exceeds the limit, the request must be denied. ERM 208, p. 1. In this case, Claimant's countable monthly income exceeded the maximum allowed for energy services with a family size of two (\$1,892).

While Claimant asserts that her income has decreased based on hours worked, the Department is required to consider any changes in accordance with policy to affect future FAP benefits. See BAM 220 (November 1, 2012), p 8. Claimant may reapply for SER benefits at anytime.

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 acted in accordance with policy when it reduced Claimant's FAP benefits effective March 1, 2013; and denied the application for SER (energy services) on January 25, 2013.

Accordingly, the Department's FAP and SER decision is hereby, **AFFIRMED**.



MICHELLE HOWIE
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/21/2013

Date Mailed: 3/21/2013

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

MH/hw

cc:

