

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

IN THE MATTER OF:



Reg. No.: 201343799
Issue No.: 3003, 5016, 5100, 6019
Case No.: [REDACTED]
Hearing Date: May 30, 2013
County: Wayne DHS (43)

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 30, 2013, 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 Child Development and Care (CDC) application due to excess income.

The second issue is whether DHS properly denied Claimant's State Emergency Relief (SER) application requesting energy assistance due to a lack of emergency.

The third issue is whether DHS properly factored all relevant expenses in determining Claimant's eligibility for SER for a water bill and Food Assistance Program (FAP) benefits.

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 4/12/13, Claimant applied for CDC and FAP benefits.
2. On 4/12/13, Claimant also applied for SER seeking help with arrearages on water and energy bills.

3. Claimant owed \$203 on a water bill.
4. Claimant's energy service was not in shut-off threat.
5. Claimant's application noted that she was responsible for \$160/two weeks in dependent care expenses.
6. Claimant verified a \$900/month rental obligation.
7. On 4/15/13, DHS denied Claimant's request for energy bill assistance because Claimant did not have an emergency (see Exhibits 1-2).
8. On 4/15/13, DHS denied Claimant's request for water bill assistance based on her copayment exceeding the amount of relief requested (see Exhibits 7-8).
9. On 4/15/13, DHS denied Claimant's CDC application due to excess income (see Exhibit 3).
10. On 4/15/13, DHS denied Claimant's FAP benefit application, in part, by factoring \$0 CDC expenses and an \$850 rental obligation (see Exhibits 4-5).
11. On 4/26/13, Claimant requested a hearing to dispute the denials to FAP, CDC, SER (energy) and SER (water).

CONCLUSIONS OF LAW

The Child Development and Care 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 of Human Services provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a CDC application denial. It was not disputed that DHS denied the application based on excess income by Claimant.

In calculating income eligibility, DHS is to use the gross (before deductions) countable, monthly income to determine the amount the department will pay (department pay percent) towards the group's child care costs. BEM 525 (1/2011), p. 1. DHS is to apply the policies of BEM 505 for details on when a budget is needed, income and benefit month definitions, and the conversion of income to a monthly figure. *Id.*

Claimant conceded that she had \$1892 in monthly employment income, that her child received \$1131 in monthly RSDI and that she was the caretaker to two minor children. The total household income was \$3023.

DHS is to test the program group's countable income against the Child Development and Care Income Eligibility Scale found in RFT 270. BEM 703 (4/2012), p. 13. Department Pay Percent varies depending on program group size and countable income for all program group members. *Id.* The income limit for a three person CDC group is \$1990. RFT 270 (10/2011), p. 1. The group's income exceeds the program income limit. It is found that DHS properly denied Claimant's CDC application due to excess 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, 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Claimant also requested a hearing to dispute a denial of an SER application requesting assistance with payment of an energy account. When the group's heat or electric service for their current residence is in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301 (2/2013), p. 1. DHS is to verify actual or threatened shutoff or the need for reconnection of natural gas or electricity, by contacting the energy company. *Id.*, p. 7.

Claimant testified that her energy service was shut-off on 4/1/13 and remained shut-off until Claimant made payment arrangements with the energy company. As of 4/12/13, the date of Claimant's SER application, Claimant's energy service was restored and not in threat of shut-off. DHS verified Claimant's account status with a document shown to Claimant which noted that Claimant was in payment arrangements. Claimant thought that she should have been eligible for SER based on her recent service shut-off, however, Claimant's energy account status prior to her SER application is irrelevant. SER is reserved only for persons with a current threat of shut-off, not a previous threat. It is found that DHS properly denied Claimant's SER request for energy assistance.

Claimant also disputed a denied request for help with her water bill. It was not disputed that Claimant's water service was in threat of shut-off. There were budget factors that were in dispute.

Claimant testified that she should have been evaluated for a \$500+ water bill arrearage. During the hearing, DHS presented Claimant with a document from the water company which verified that Claimant had a \$503 water bill arrearage, but that Claimant paid \$300 on 4/12/13. The document was definitive evidence that DHS should have evaluated Claimant for a \$203 water bill arrearage. DHS budget procedures are found in ERM 206 and ERM 208.

For purposes of SER eligibility, DHS is to count the group's income in the 30 day period, starting with the date of application. As it happened, Claimant applied on a date which began a 30 day period which she was to receive five weekly employment income pay checks. It was not disputed that those pays were fairly prospectively to be \$2,200.

DHS gives a 25% deduction for taxes on employment income. After accounting for the tax deduction and adding Claimant's group's unearned income results in a running countable income of \$2781.

Expenses that are factored include: health insurance premiums, dependent care expenses and child support payments. It was not disputed that Claimant reported \$160/biweekly dependent care expenses, which DHS failed to factor. Converting the biweekly expenses to a monthly expense by multiplying it by 2.15, results in a total of \$344 in dependent care expenses. Subtracting the expenses from Claimant's income, results in a running total of \$2437.

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 SER Income Need Standards for Non-Energy Services. ERM 208 (10/2012), p. 1. The SER income need standard for a group size of 3 is \$625. *Id.*, p. 4. Claimant had \$1812 in excess income.

Because Claimant's excess income copayment (\$1812) exceeded the amount to stop the shut-off (\$203), DHS properly denied Claimant's SER application for a water service shut-off. Though DHS erred by not counting Claimant's dependent care expense, the error was harmless as Claimant was still ineligible for SER after the expense was factored.

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).

Lastly, Claimant requested a hearing to dispute a FAP application denial. BEM 556 outlines the procedures for determining FAP benefit eligibility.

DHS provided a budget (Exhibits 4-5) showing what figures were used to determine Claimant's FAP benefit eligibility. DHS conceded that an error was made by failing to factor Claimant's reported dependent care expenses. It was also determined that DHS factored an \$850 rent obligation, but that Claimant verified a \$900 rent obligation. Accordingly, the DHS denial of Claimant's FAP benefit application was improper for failing to factor two relevant budget considerations.


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 CDC application and SER applications for energy and water bill assistance. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's FAP benefit application. It is ordered that DHS:

- (1) re-register Claimant's FAP benefit application dated 4/12/13;
- (2) redetermine Claimant's FAP benefit eligibility, subject to the findings that Claimant reported a biweekly \$160 dependent care obligation and verified a \$900/month rent obligation; and
- (3) supplement Claimant for FAP benefits, if any, improperly not issued.

The actions taken by DHS are REVERSED.


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

Date Signed: 6/10/2013

Date Mailed: 6/10/2013

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.

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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:

