

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201312472
Issue No: 3015, 5020
Case No: [REDACTED]
Hearing Date: January 16, 2013
Shiawassee County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on November 7, 2012. After due notice, a telephone hearing was held on January 16, 2013 at which Claimant personally appeared and provided testimony. The department was represented by [REDACTED], an assistance payments supervisor, and [REDACTED], a cash worker, both with the department's Shiawassee County office.

ISSUE

Whether the department properly determined Claimant's eligibility for the Food Assistance Program (FAP) and the State Emergency Relief (SER) program?

FINDINGS OF FACT

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

1. On September 18, 2012, Claimant applied for FAP benefits and SER assistance with heat, electric, property taxes, and mortgage.¹ In doing so, Claimant indicated that his home is not in foreclosure. (Department Hearing Summary)
2. On October 1, 2012, the department mailed Claimant a State Emergency Relief Decision Notice (DHS-1419), informing him that his request for SER assistance with his property taxes and mortgage had been denied for the reason that he did not have an emergency, and his request for energy services had been denied because he was not in shut-off status and his

¹ Claimant also applied for Family Independence Program (FIP) benefits, Medical Assistance (MA) benefits, and Child Development Care (CDC) benefits however both Claimant and the department agree that the department's determination of Claimant's eligibility for these programs is not at issue here.

income/asset copayment was equal to or greater than the amount needed to resolve the emergency. (Department Exhibits C, D, E, F, G, H)

3. On or about October 1, 2012, the department also mailed Claimant a Verification Checklist (DHS 3503), requesting that Claimant provide verification of loss of employment, savings and checking account, mortgage, second mortgage, home insurance, and property taxes. In doing so, the department advised Claimant that his failure to provide the requested information by October 11, 2012 may result in the denial, decrease, or cancellation of his benefits. (Department Exhibit A)
4. Claimant did not provide the department with the required verifications by the October 11, 2012 deadline.
5. On October 29, 2012, the department mailed Claimant a Notice of Case Action (DHS 1605), informing him that effective October 17, 2012, his application for FAP benefits had been denied due to his failure to timely provide the required verifications. (Department Hearing Summary)
6. On November 7, 2012, Claimant submitted a hearing request protesting the denial of his application for FAP benefits and SER assistance. (Request for Hearing)

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance is denied. MAC R 400.903(1).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

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 policies are found in the State Emergency Relief Manual (ERM). The program assists with non-energy services, such as home ownership, relocation, home repair, utility, and burial services, as well as with energy services, such as heat, electricity, water, sewer, and cooking gas services. ERM 100.

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. ERM 304. Covered home ownership services include property taxes and fees. Home

ownership services payments are only issued to save a home threatened with loss due to:

- Mortgage foreclosure.
- Land contract forfeiture.
- Tax foreclosure or sale.
- Court-ordered eviction of a mobile home from land or a mobile home park.
- Repossession for failure to meet an installment loan payment for a mobile home. ERM 304.

Low-income households who meet eligibility requirements in this item can receive assistance to help them meet their household heat and electric costs. Funding for energy services assistance is provided through the Low Income Home Energy Assistance Program (LIHEAP). ERM 301.

When the group's heating or electric service for their current residence is in threat of or is already off and service must be restored, payment may be authorized to the provider up to the fiscal year cap. Payment must resolve the emergency by restoring or continuing the service for at least 30 days.

To be eligible for energy service assistance, an SER group must make required payments toward their energy service bills unless the case is categorically eligible. The required payment amounts are based on the group size and service (heat or electric).

The energy required payment period is the six-month period prior to the month the SER group applies for assistance, regardless of previous approvals. It applies even if the client has never requested or received SER energy services in the past six-months. For example, if the group applies for heating assistance on January 13, the required payment period is July through December.

Energy required payments are met if the amounts paid by the group for heating fuel and/or electricity equal or exceed the table amounts for the required payment period. Required payments must be met for each month the SER group has an obligation to pay for the service. Failure to make required payments may result in a shortfall.

Previously issued SER funds cannot be used to make required payments. Contributions from any other source, including Home Heating Credits applied to the group's account, can count toward required payment amounts.

If required energy payments have not been met, Bridges will determine if good cause for non-payment exists. Failure to make required payments without good cause may result in a shortfall. If the group fails to meet good cause criteria, give them the opportunity to make required payments.

If good cause does not exist, the shortfall must be paid before any SER payment can be authorized. The group has 30 calendar days, beginning with the date of application, to provide verification to the worker that the shortfall payment has been made or will be made by another agency or organization. A shortfall cannot be waived.

Once the client returns the verification, the worker must enter the information in Bridges on the Client Paid Amounts screen. If the client fails to provide verification by the deadline, the worker must complete the Client Paid amounts screen by indicating that the verification was not received. No SER payment will be made if the client fails to return verification by the deadline.

The department verifies that required payments have been made by:

- Receipts from the provider(s).
- Statement from the provider(s).
- Phone call/fax/email from the provider(s).
- Provider's secure Web site.

A DHS-1419, SER Decision Notice, is sent to the client for every energy request. The notice must include the required payment amounts to inform the client of their obligation. The department must verify actual or threatened shutoff or need for reconnection of natural gas or electricity by contact with the utility company. Contact can be in the form of a written notice, telephone call, fax, email or information on the provider's secure website. The department may verify the need for deliverable fuels by the statement of the group.

To verify the cost of the emergency, an actual bill must be obtained from the provider before authorizing a payment. In the absence of an actual bill, a fax or email received directly from the energy provider is acceptable as long as it includes all the pertinent information that would be included on the actual bill.

The SER group must use countable cash assets to assist in resolving their emergency. The protected cash asset limit is \$50. ERM 205. The department will exclude the first \$50 of an SER group's cash assets, and the amount in excess of the protected cash asset limit is deducted from the cost of resolving the emergency and is called the asset copayment. Non-Cash SER groups with only one member have a \$1750 non-cash asset limit. SER groups with two or more members have a \$3000 non-cash asset limit. ERM 205.

Examples of cash assets include: currency and coins; amounts on deposit in banks, savings and loan associations, credit unions and other financial institutions; uncashed checks, drafts and warrants; traveler's checks; stocks, bonds and other investments, including negotiable instruments; individual retirement accounts; Keogh plans; revocable prearranged funeral contracts; and nonrecurring lump-sum payments that do not represent an accumulation of monthly benefits, (such as lottery winnings). ERM 205.

Examples of non-cash assets include: land contracts; real property; and vehicles. ERM 205.

The department will count the equity value of an asset when determining SER eligibility. ERM 205. The department must deny the application if the equity value of non-cash assets exceeds the non-cash asset limit. ERM 205.

In this case, the department determined that Claimant was not eligible for SER assistance with his mortgage and property taxes because Claimant's home was not threatened with loss due to mortgage foreclosure, land contract forfeiture, tax foreclosure, or court ordered eviction, as is required by ERM 304 before an SER home ownership service payment may be approved by the department. The department further determined that Claimant was not eligible for SER assistance for energy services because, pursuant to a Consumer's Energy statement dated October 1, 2012, Claimant's electricity service was not in shut-off status for the time period in question. Finally, the department determined that Claimant was not eligible for SER assistance for fuel services because Claimant's income/asset copayment was equal to or greater than the amount needed to resolve the emergency.

At the January 16, 2013 hearing, Claimant did not disagree with the department's determinations that his home was not in foreclosure, that his electricity service was not in shut-off status, and that his income and assets exceeded the amount needed to resolve his fuel emergency.

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 of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

Department policy indicates that clients must cooperate with the local office in determining initial and ongoing eligibility with all programs. BAM 105. This includes completion of the necessary forms. Clients who are able to but refuse to provide necessary information or take a required action are subject to penalties. BAM 105. Clients must take actions within their ability to obtain verifications. BAM 130; BEM 702. Likewise, DHS local office staff must assist clients who ask for help in completing forms. BAM 130; BEM 702; BAM 105. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. The department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130. If the client is unable to provide the verification despite a reasonable effort, the department must extend the time limit at least once. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a

reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

In this case, Claimant is disputing the department's denial of his application FAP benefits for failure to timely provide the requested verifications. However, at the January 16, 2013 hearing, Claimant testified that he could not recall whether he timely provided the department with the necessary verifications. Conversely, the department's representatives testified that Claimant did not provide the required verifications by the October 11, 2012 deadline or, indeed, before the department's October 29, 2012 denial of Claimant's application for FAP benefits.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

The Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds, based on the competent, material, and substantial evidence presented during the hearing, the department properly determined that Claimant was not eligible for SER assistance for the reason that his home was not in foreclosure, his electricity service was not in shut-off status, and his income and assets exceeded the amount needed to resolve his fuel emergency. The Administrative Law Judge further finds, based on the competent, material, and substantial evidence presented during the hearing, the department properly determined that Claimant was not eligible for FAP benefits for failure to timely provide the required verification documentation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly determined that Claimant was not eligible for SER assistance or FAP benefits. Accordingly, the department's actions in this regard are **UPHELD**.

It is **SO ORDERED**.

/s/ _____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: January 22, 2013
Date Mailed: January 23, 2013

NOTICE: Michigan Administrative Hearings 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 Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal this Order to Circuit Court within 30 days of the receipt of the 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of 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 System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/cr

cc:

