

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

IN THE MATTER OF:



Reg. No: 201332049
Issue No: 3012, 5012
Case No: [REDACTED]
Hearing Date: March 27, 2013
Ingham 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 February 22, 2013. After due notice, a telephone hearing was held on March 27, 2013. Claimant personally appeared and provided testimony. The department was represented by [REDACTED] [REDACTED] a PATH worker with the department's Ingham County office

ISSUES

1. Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits?
2. Whether the department properly determined Claimant's eligibility for State Emergency Relief (SER) assistance?

FINDINGS OF FACT

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

1. Claimant was a recipient of FAP benefits at all times relevant to this hearing.
2. Prior to the hearing in this matter, the department submitted a remedy ticket request to correct a computer error that was denying Claimant a FAP supplement to which she is entitled as a result of a department error. (Department Hearing Summary)
3. On or about October 2012, Claimant applied for SER assistance with housing expenses.

4. On October 19, 2012, the department mailed Claimant a State Emergency Relief Decision Notice informing Claimant that her request for assistance had been denied because her housing was not affordable.
5. On February 22, 2012, Claimant requested a hearing, protesting the department's ongoing failure to properly determine her FAP benefit eligibility and the department's October 19, 2012 denial of her SER application.¹ (Hearing Request)
6. On March 6, 2013, the department provided the Administrative Law Judge with a hearing packet that contained the following: hearing summary, request for hearing, and notice of hearing. No other documents relating to Claimant's request for hearing were contained in the hearing packet. Moreover, the department's hearing summary contained the following two sentences: Steps have been taken to correct FAP – case currently has a ticket out on it. SER was denied because of housing unaffordability on 11/27/12. (Hearing Packet)

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 has been 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 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 administers the FAP program pursuant to MC L 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).

¹ While Claimant's February 22, 2012 hearing request was filed over 90 days after the department's October 19, 2012 denial of Claimant's SER application and would therefore otherwise be considered untimely pursuant to BAM 600, Claimant testified and presented supporting documentation establishing that she first submitted a hearing request on November 30, 2012 regarding this issue and was never provided a hearing – a fact undisputed by the department. The department's failure to provide a hearing packet with the instant hearing, as well as the department representative's testimony that the department actually *lost* Claimant's entire case file, lends further support to this Administrative Law Judge's decision to allow Claimant to proceed with a hearing regarding the department's October 19, 2012 denial of Claimant's SER application.

In this case, Claimant is contesting the department's ongoing failure to properly determine her FAP benefit eligibility and issue Claimant a FAP supplement to which she is entitled as a result of department error. At the March 27, 2013 hearing, the department representative acknowledged that Claimant is indeed eligible for a FAP benefit supplement, however, the department remains unable to approve Claimant's FAP benefit supplement because the computer system will not allow it. The department representative further testified that the department submitted a request to resolve the problem. And, although the department representative agreed to provide this Administrative Law Judge with the remedy ticket # and the date on which the remedy ticket was submitted immediately following this hearing, the department representative has failed to do so. To date, the computer problem remains unresolved and, consequently, Claimant has not received the FAP benefit supplement to which she is entitled.

The State Emergency Relief (SER) program was 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 application forms and each written notice of case action inform clients of their right to a hearing. BAM 600. These include an explanation of how and where to file a hearing request, and the right to be assisted by and represented by anyone the client chooses. BAM 600. The client must receive a written notice of all case actions affecting eligibility or amount of benefits. When a case action is completed it must specify:

- The action being taken by the department.
- The reason(s) for the action.
- The specific manual item(s) that cites the legal base for an action, or the regulation, or law itself; see BAM 220.

The Michigan Administrative Hearing System (MAHS) may grant a hearing on any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.

- For FAP only, the current level of benefits or denial of expedited service. BAM 600.

For each hearing not resolved at a prehearing conference, the department is required to complete a Hearing Summary (DHS-3050). BAM 600. In the hearing summary, all case identifiers and notations on case status must be complete; see RFF 3050. The DHS-3050 narrative must include all of the following:

- Clear statement of the case action, including all programs involved in the case action.
- Facts which led to the action.
- Policy which supported the action.
- Correct address of the AHR or, if none, the client.
- Description of the documents the local office intends to offer as exhibits at the hearing. BAM 600.

During the hearing, the participants may give opening statements. BAM 600. Following the opening statement(s), if any, the ALJ directs the DHS case presenter to explain the position of the local office. BAM 600. The hearing summary, or highlights of it, may be read into the record at this time. BAM 600. The hearing summary may be used as a guide in presenting the evidence, witnesses and exhibits that support the Department's position. BAM 600. Department workers who attend the hearings are instructed to always include the following in planning the case presentation:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights.

The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. The ALJ issues a final decision unless the ALJ believes that the applicable law does not support DHS policy or DHS policy is silent on the issue being considered. BAM 600. In

that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600.

In the instant case, Claimant's hearing request clearly pertains in part to the State Emergency Relief program. However, the department failed to provide any documentation in the hearing packet regarding Claimant's application for SER assistance and the department's hearing summary sheds no helpful light on the issue except to indicate that Claimant was denied SER housing assistance on November 27, 2012 due to unaffordability. Moreover, at the March 27, 2013 hearing, Claimant testified and presented supporting documentation establishing that she first submitted a hearing request on November 30, 2012 regarding the department's *October 19, 2012* denial of Claimant's SER application and was never provided a hearing – a fact undisputed by the department. Indeed, the department's representative testified that the department actually *lost* Claimant's entire case file and the department representative further acknowledged that she could offer no explanation or documentation for the specific basis for the department's October 19, 2012 denial or the department's November 27, 2012 denial of Claimant's October and November 2012 SER applications.

Without any documentation in the hearing packet and absent any explanation from the department representative on the facts surrounding the department's October 19, 2012 denial of Claimant's SER application for housing expenses, the Administrative Law Judge is unable to make a reasoned, informed decision regarding this issue.

Accordingly, this Administrative Law Judge finds that the department has failed to carry its burden of proof and did not provide information as required under BAM 600 to enable this Administrative Law Judge to decide whether the department acted in accordance with policy in denying Claimant's SER application on October 19, 2012. This Administrative Law Judge further finds, based on the competent, material, and substantial evidence presented during the hearing, the department did not act in accordance with policy in determining Claimant's FAP benefits and has submitted a help desk remedy ticket request to resolve the problem and to date, the computer problem remains unresolved.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department failed to properly determine Claimant's FAP eligibility. Accordingly, the department's actions are **REVERSED and the department is ordered to** redetermine Claimant's eligibility for FAP benefits in accordance with the applicable department policy and the department shall take the necessary steps to ensure the computer problem is resolved and Claimant's FAP eligibility is corrected in the computer system. The department shall also issue any supplemental FAP benefits to Claimant, if she is otherwise entitled to them, back to the date on which Claimant would have otherwise been issued them, absent the department's error.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, is unable to decide whether the department acted in accordance with policy in denying Claimant's SER application on October 19, 2012. Therefore, the department's determination in this regard is **REVERSED** and the department shall immediately reprocess Claimant's October 2012 SER application for housing assistance and retroactively re-determine Claimant's eligibility for SER assistance at the time of her original application in accordance with the applicable department policy and award Claimant such SER assistance if she should have otherwise been entitled to it.

It is **SO ORDERED**.

/s/

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

Date Signed: April 3, 2013

Date Mailed: April 3, 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.

201332049/SDS

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:

