

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 2013-57880
Issue No.: 3019; 5022
Case No.: ██████████
Hearing Date: August 12, 2013
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 August 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUES

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance for water/sewage, non-heat electricity and, heat?

Did the Department properly deny Claimant's Food Assistance Program (FAP) application effective June 18, 2013, ongoing?

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 June 18, 2013, Claimant applied for FAP and SER benefits online.
2. On June 19, 2013, the Department sent Claimant a SER Verification Checklist, which was due back by June 26, 2013. Exhibit 1.

3. On June 19, 2013, the Department sent Claimant a Verification Checklist (VCL) in regards to her FAP application, which was due back by July 1, 2013. Exhibit 1.
4. On June 21, 2013, the Department sent Claimant a Verification of Assets. Exhibits 1 and 2.
5. On June 28, 2013, the Department sent Claimant a State Emergency Relief Decision notice, which denied Claimant's request for water/sewage, non-heat electricity, and heat. Exhibit 1.
6. On July 2, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were denied effective June 18, 2013, ongoing. Exhibit 1.
7. On July 2, 2013, Claimant submitted some of the requested verifications. See Exhibit 1.
8. On July 5, 2013, Claimant filed a hearing request, protesting her FAP and SER benefits. Exhibit 1.

CONCLUSIONS OF LAW

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

SER benefits

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 Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

In this case, on June 18, 2013, Claimant applied for SER benefits online. On June 19, 2013, the Department sent Claimant a SER Verification Checklist, which was due back by June 26, 2013. Exhibit 1. The SER Verification Checklist requested proof of Claimant's checking account. See Exhibit 1. Also, on June 21, 2013, the Department sent Claimant a Verification of Assets. Exhibits 1 and 2. On June 28, 2013, the Department sent Claimant a State Emergency Relief Decision notice, which denied Claimant's request for water/sewage, non-heat electricity, and heat. Exhibit 1. Specifically, the SER Decision Notice denied Claimant based on income/asset copayment is equal to or greater than the amount needed to resolve the emergency and Claimant's failure to provide verification of the bank information. See Exhibit 1. On July 2, 2013, Claimant submitted the verification of assets.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (March 2013), p. 6. The due date is eight calendar days

beginning with the date of application. ERM 103, p. 5. If the application is not processed on the application date, the deadline to return verification is eight calendar days from the date verification is requested. ERM 103, pp. 6-7. The Department uses the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 7. The client must make a reasonable effort to obtain required verifications. ERM 103, p. 7. The specialist must assist if the applicant needs and requests help. ERM 103, p. 7. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, the Department uses the best available information. ERM 103, p. 7. If no evidence is available, the specialist must use their best judgment. ERM 103, p. 7.

At the hearing, the Department testified that it received the Verification of Assets on July 2, 2013. This is after the due date. Claimant testified that she spoke to the Department that she received the verification late and that she will turn it in. Moreover, Claimant testified that it does take time to obtain the verifications. Claimant agreed that she submitted proof of the Verification of Assets on July 2, 2013.

It should be noted that the SER Verification Checklist was sent on June 19, 2013. However, the Verification of Assets was sent on June 21, 2013. It appears per ERM 103, Claimant would have eight calendar days from the date of the Verification of Assets to submit the document. ERM 103, pp. 6-7. Claimant still submitted the Verification of Assets late.

It should also be noted that the Department denied Claimant also based on income/asset copayment is equal to or greater than the amount needed to resolve the emergency. See Exhibit 1. However, the Department failed to present any evidence or testimony regarding the income/asset copayment calculation.

Nevertheless, the Department properly denied Claimant's SER assistance request effective June 28, 2013, in accordance with Department policy. Claimant failed to submit the verification of her bank account timely. Moreover, Claimant agreed that she submitted the document on July 2, 2013, which is after the eight calendar day due date. ERM 103, pp. 6-7.

FAP benefits

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.

It should first be noted that Claimant testified that her FAP application should have reflected a group size of four. However, the Department processed the application reflecting a group size of three due to one of the group members receiving FAP benefits already. The Department presented credible evidence that the other group member

was receiving FAP benefits in a different group. See Exhibit 2. Thus, the Department properly processed the FAP application reflecting a group size of three. See BEM 222 (March 2013), p. 2.

On June 18, 2013, Claimant applied for FAP benefits online. On June 19, 2013, the Department sent Claimant a Verification Checklist (VCL) in regards to her FAP application, which was due back by July 1, 2013. Exhibit 1. On June 21, 2013, the Department sent Claimant a Verification of Assets. Exhibits 1 and 2. On July 2, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits were denied effective June 18, 2013, ongoing. Exhibit 1.

Clients must cooperate with the local office in completing necessary forms for determining initial and ongoing eligibility. BAM 105 (March 2013), p. 5. The client must obtain required verification, but the Department must assist if they need and request help. BAM 130 (May 2012), p. 3. If neither the client nor the Department can obtain verification despite a reasonable effort, the Department uses the best available information. BAM 130, p. 3. If no evidence is available, the Department uses its best judgment. BAM 130, p. 3.

For FAP cases, allow the client 10 calendar days (or other time limit specified in policy) to provide the verification the Department requests. BAM 130, p. 5. Also for FAP cases, if the client indicates refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it, then policy directs that a negative action be issued. BAM 130, p. 5.

At the hearing, the Department requested verification of Claimant's medical expenses, home rent, and checking account. See Exhibit 1. On July 2, 2013, the Department testified that Claimant submitted the home rent and assets verification. However, the Department did not receive the medical expenses which Claimant did not dispute.

Thus, based on the foregoing information and evidence, the Department properly denied Claimant's FAP application effective June 18, 2013, ongoing, due to her failure to comply with the verification requirements. Claimant submitted the verifications after the due date. Moreover, Claimant admitted that she did not submit the medical expenses. Claimant failed to submit the required documents timely. BAM 130, p. 5. Moreover, Claimant failed to cooperate with the local office in completing the necessary forms to determine her FAP eligibility. BAM 105, p. 5.

It should also be noted that the Department denied Claimant's FAP application due to excess income. Exhibit 1.

A non-categorically eligible Senior/Disabled/Veteran (SDV) FAP group must have income below the net income limits. BEM 550 (February 2012), p. 1. RFT 250, Column B, Monthly Net Income Limit states that a group size of three income limit is \$1,591. RFT 250 (October 2012), p. 1.

A group's financial eligibility and monthly benefit amount are determined using: actual income (income that was already received) or prospected income amounts (not received but expected). BEM 505 (October 2010), p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. The Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 6. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 6. Moreover, the Department counts the gross amount as unearned income regarding Retirement, Survivors and Disability Insurance (RSDI) payments. BEM 503 (July 2013), pp. 20-21.

The Department presented a July 2013 FAP budget which indicated that Claimant's net income of \$1,948 exceeded the net income limit of \$1,591. See Exhibit 1. During the hearing, though, the Department confirmed that the June and July 2013 FAP budget were the same. Moreover, the June 2013 FAP budget was based on a group size of three. Thus, the hearing continued with reviewing the July 2013 FAP budget. It was determined in the beginning of this analysis that a group size of three was appropriate. Moreover, it was not disputed that the FAP group contained SDV members. The Department testified that the FAP group's unearned income was \$2,166 from RSDI, which Claimant did not dispute.


Then, the Department did properly apply the \$148 standard deduction applicable to Claimant's group size of three. BEM 550, p. 1; RFT 255 (October 2012), p. 1. This results in the amount of \$2,018.

The Department then subtracted a \$70 medical deduction because Claimant testified that she does pay her medical premium. Groups with one or more SDV member have a medical expense deduction that exceeds \$35. BEM 554 (October 2012), p. 1. The Department then subtracts the \$70 from the \$2,018, which results in an adjusted gross income of \$1,948. The Department did not show any shelter deductions. Thus, this resulted in a net income of \$1,948. This amount exceeded the net income limit of \$1,591 for a group size of three. RFT 250, p. 1. Thus, the Department also properly denied Claimant's FAP application due to excess income.

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 (i) properly denied Claimant's SER application effective June 28, 2013, and (ii) properly denied Claimant's FAP application effective June 18, 2013, ongoing.

Accordingly, the Department's FAP and SER decision is AFFIRMED for the reasons stated on the record.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 20, 2013

Date Mailed: August 20, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/cl

cc: [REDACTED]
[REDACTED]
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