

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201360890
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: August 28, 2013
County: Bay

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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. After due notice, a hearing was held on August 28, 2013. Claimant appeared and testified. The Department was represented by [REDACTED].

ISSUE

Did the Department of Human Services properly apply an employment related sanction to Claimant's Food Assistance Program (FAP) on June 1, 2013?

Was it proper for the Department of Human Services to not make payment in accordance with the June 27, 2013 Decision Notice State Emergency Relief (DHS-1419) issued to Claimant?

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 April 26, 2013, Claimant submitted an application for State Emergency Relief (SER) for energy services. Claimant reported she was no longer employed at [REDACTED]. A Verification of Employment (DHS Form 38) was sent to [REDACTED].
- (2) On April 30, 2013, the Department received the Verification of Employment (DHS Form 38) from [REDACTED]. The verifications stated that Claimant quit employment on February 1, 2013.

- (3) On May 8, 2013, Claimant was sent a Notice of Non-Compliance (DHS-2444) which scheduled a meeting for May 16, 2013. Claimant was also sent a Notice of Case Action (DHS-1605) which stated her Food Assistance Program (FAP) benefits would increase on June 1, 2013 but she was removed from the Food Assistance Program (FAP) benefit group.
- (4) On May 15, 2013, Claimant attended the scheduled meeting. Claimant asserted she was fired from [REDACTED]. The Department determined there was no good cause for her loss of employment.
- (5) On May 17, 2013, Claimant submitted a request for hearing about the changes in her Food Assistance Program (FAP).
- (6) On May 23, 2013, Claimant submitted a withdrawal of the May 17, 2013 hearing request.
- (7) On June 27, 2013, Claimant submitted a State Emergency Relief (SER) application for energy services. The Department sent Claimant a Decision Notice State Emergency Relief (DHS-1419) regarding the application. The notice stated that Claimant was responsible for a [REDACTED] co-payment toward her non-heat electric bill and a [REDACTED] co-payment toward her heat-natural gas bill. Claimant's co-payment was to be verified by July 26, 2013.
- (8) On July 1, 2013, Claimant reported she began a new job.
- (9) On July 25, 2013, Claimant submitted a request for hearing about her Food Assistance Program (FAP) and State Emergency Relief (SER) decision.
- (10) On July 26, 2013, Claimant had not provided verification of a [REDACTED] combined co-payment so the Department did not make any payment toward Claimant's utility bill.

CONCLUSIONS OF LAW

Food Assistance Program (FAP)

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) and the Program Reference Manual (PRM).

Regarding Claimant's Food Assistance Program (FAP) hearing request, jurisdiction is the first issue which must be resolved. The Notice of Case Action (DHS-1605) which providing Claimant notice of the FAP action is dated May 8, 2013. A request for hearing on July 25, 2013 is within the 90 day time limit to request a hearing as provided in Department of Human Services Bridges Administration Manual (BAM) 600 (2013). However, this is not the first request for hearing about the FAP action. Claimant submitted a hearing request on May 17, 2013 and withdrew that request on May 23, 2013. Claimant asserts that she withdrew the request because she was told she would only be out of the benefit group for the month of June 2013. At this hearing Claimant testified that she was fired from [REDACTED] and wants to contest being removed from the group at all.

Claimant's May 23, 2013 withdrawal of the May 17, 2013 request for hearing resulted in a dismissal of the May 17, 2013 request. The dismissal sent to Claimant states that she may appeal the dismissal to Circuit Court within 30 days of her receipt of the dismissal. Jurisdiction to review the dismissal of her May 17, 2013 request for hearing only exists in Circuit Court. There is no jurisdiction to address Claimant's May 17, 2013 request for hearing in this hearing.

State Emergency Relief (SER)

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 of Human Services (DHS or department) policies are found in the State Emergency Relief Manual (SER).

Claimant does not dispute that she did not make a [REDACTED] combined co-payment on her utility bill by July 26, 2013. Claimant asserts that she did make the indicated [REDACTED] co-payment for her non-heat electric bill so the Department should have to pay the [REDACTED] on the non-heat electricity bill as shown on the Decision Notice State Emergency Relief (DHS-1419). Department of Human Services Emergency Relief Manual (ERM) 301 Energy Services (2013) pages 4 & 5 state:

ENERGY REQUIRED PAYMENTS

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); see the Table of Monthly Energy Required Payments in this item.

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.

Two methods for determining required payments are available. Use the method that is most beneficial for the client:

Method 1: Apply only the payments made for the service requested.

Method 2: Apply payments made for both heat and electricity.

In this case Claimant applied for both heat and electric. Use of either method described above requires her to make the co-payments for both heat and electric.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the June 1, 2013 closure of Claimant's Food Assistance Program (FAP) is not a hearable issue.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides it was proper for the Department of Human Services to not make payment in accordance with the June 27, 2013 Decision Notice State Emergency Relief (DHS-1419) issued to Claimant.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **UPHELD**.

/s/ _____
Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 08/30/2013

Date Mailed: 09/03/2013

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

GFH/sw

cc:

