

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

**IN THE MATTER OF:**

████████████████████  
████████████████████  
████████████████████

Reg. No.: 2014-6239  
Issue No.: 3002; 5022; 6000  
Case No.: ██████████  
Hearing Date: November 18, 2013  
County: Wayne (57)

**ADMINISTRATIVE LAW JUDGE:** Eric Feldman

**HEARING DECISION**

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Family Independence Manager, and ██████████ Eligibility Specialist.

**ISSUES**

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective November 1, 2013, ongoing?

Did the Department properly deny Claimant's State Emergency Relief (SER) application?

**FINDINGS OF FACT**

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

1. Claimant was an ongoing recipient of FAP benefits.
2. On September 27, 2013, Claimant applied for SER assistance with rent to prevent eviction, heat, non-heat electricity, and water/sewer.
3. On October 4, 2013, the Department sent Claimant an Application Notice, which denied Claimant's SER application because she did not have a court-ordered eviction notice. See Exhibit 1.

4. On October 4, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$15 effective November 1, 2013, ongoing. Exhibit 1.
5. On October 10, 2013, Claimant filed a hearing request, protesting her FAP allotment, SER denial, and the Child Development and Care (CDC) program. See Exhibit 1.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

### **Preliminary matter**

In the present case, Claimant requested a hearing in which she also disputed the CDC benefits. See Exhibit 1. However, during the hearing, it was discovered that Claimant is not disputing her CDC benefits. Thus, Claimant's CDC hearing request is hereby DISMISSED.

### **SER application – rent to prevent eviction**

On September 27, 2013, Claimant applied for rent to prevent eviction. On October 4, 2013, the Department sent Claimant an Application Notice, which denied Claimant's

SER application because she did not have a court-ordered eviction notice. See Exhibit 1.

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2013), p. 1. Regarding verification sources of homelessness, the Department needs an eviction, judgment, or court order from last residence. ERM 303, p. 6. Note: A demand for possession non-payment of rent or notice to quit is not acceptable. ERM 303, p. 6. Regarding verification sources of becoming potentially homeless, the client must provide an eviction order or court summons regarding eviction as well (a demand for possession non-payment of rent or a notice to quit is not sufficient). ERM 303, p. 6.

At the hearing, Claimant agreed that she did not currently have an eviction order or court order. Claimant testified that she only had an eviction notice from her landlord. Claimant testified that she is currently still in the home.

Based on the foregoing information and evidence, the Department properly denied Claimant's SER application assistance for rent to prevent eviction in accordance with Department policy. ERM 303 requires that Claimant provide verification of eviction, judgment, or court order. See ERM 303, p. 6. Claimant currently does not have such an order. Thus, the Department properly denied her rent to prevent eviction SER request.

**SER application - heat, non-heat electricity, and water/sewer**

On September 27, 2013, Claimant also applied for SER assistance with heat, non-heat electricity, and water/sewer. However, the Department could not provide testimony and/or evidence if a SER Decision Notice was sent in regards to the heat, non-heat electricity, and water/sewer application.

At the hearing, Claimant testified that she currently does not have a shut-off notice for heat and/or electricity. Claimant, though, testified that she does have a water shut-off notice and provided a copy. See Exhibit A. A review of this document does indicate that it is subsequent to the application because it has a notice date of October 25, 2013. See Exhibit A. Nevertheless, the Department testified that the services requested would be denied because there are no shut-off notices.

Low-income households who meet all SER eligibility requirements may receive assistance to help them with household heat and electric costs. ERM 301 (October 2013), p. 1. When the group's heat or electric service for their current residence is in past due status, in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301, p. 1. The Department verifies past due status, threatened shutoff or the need for reconnection of natural gas or electricity, by contacting the energy company. ERM 301, p. 9.

The Department also helps to restore or prevent shut off of a utility service specified in ERM 302 when service is necessary to prevent serious harm to SER group members.

ERM 302 (October 2013), p. 1. The Department covers the payment of an arrearage to maintain or restore service for the following utilities: water, sewer or cooking gas. ERM 302, p. 1. The Department verifies actual or possible shutoff of water, sewer or cooking gas service. See ERM 302, p. 4.

Moreover, the Department informs all SER applicants in writing of the decision made on their application. ERM 103 (October 2013), p. 3. The Department mails or gives the DHS-1419, Decision Notice, to the applicant. ERM 103, p. 3. The notice must also be provided whenever a client with-draws their application. ERM 103, p. 3.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (July 2013), p. 33. Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, pp. 33-34. 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. BAM 600, p. 35.

Based on the foregoing information and evidence, the Department did not satisfy its burden of showing that it acted in accordance with Department policy because it failed to process Claimant's SER application for heat, electricity, and water/sewer. The Department failed to present testimony and/or evidence that it sent Claimant a decision notice in regards to the heat, electricity, and water/sewer application. The Department informs all SER applicants in writing of the decision made on their application. ERM 103, p. 3. The Department mails or gives the DHS-1419, Decision Notice, to the applicant. ERM 103, p. 3. The Department properly informed Claimant of the decision to deny her rent to prevent eviction application; however, it failed to send Claimant a notice in writing in regards to her application for heat, electricity, and water/sewer. ERM 103, p. 3. The Department will process her SER application for the remaining services requested.

### **FAP benefits**

Claimant was an ongoing recipient of FAP benefits. On October 4, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to \$15 effective November 1, 2013, ongoing. Exhibit 1.

It was not disputed that the certified group size is one and that the FAP group does not contain a senior/disabled/disabled veteran (SDV) member. The Department presented the November 2013 FAP budget for review. See Exhibit 1. The Department calculated Claimant's gross earned income to be \$1,720. See Exhibit 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 (July 2013), 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, pp. 7-8.

The Department testified that it calculated her gross earned income based on Claimant's submitted pay stub and/or SER application information. Claimant testified that she is paid biweekly, earns \$10.03 an hour, and works 40 hours a week. Converting Claimant's biweekly pay to a standard monthly amount, this results in an approximate standard amount of \$1,725. Based on the foregoing information, the Department properly calculated Claimant's gross earned income. Even though the amount is approximate, Claimant's testimony indicated that the Department did a proper calculation.

The Department then applied the 20 percent earned income deduction. BEM 550 (July 2013), p. 1. Twenty percent of \$1,720 is \$344, which results in a post earned income of \$1,376 (\$1,720 total income amount minus \$344 earned income deduction).

The Department then applied the \$151 standard deduction applicable to Claimant's group size of one. RFT 255 (October 2013), p. 1. Once the Department subtracts the \$151 standard deduction, this results in an adjusted gross income of \$1,225. See Exhibit 1.

Then, Claimant testified that the FAP group does not contain any SDV members. For groups with no SDV members, the Department uses the excess shelter maximum in RFT 255. RFT 255, p. 1. RFT 255 indicates that the standard shelter maximum for non-SDV members is \$478. RFT 255, p. 1.

The Department presented an excess shelter budget, which indicated Claimant's monthly housing expense is \$0. See Exhibit 1. Claimant, though, testified that her monthly housing expense is \$600. The Department testified that it first learned of Claimant's housing expenses in her request for hearing. See Exhibit 1. Claimant testified that she was not sure if she provided the Department notice of her rent at a previous time. Claimant testified that she believes she provided her lease agreement to the Department after receiving the Notice of Case Action dated October 4, 2013. Moreover, subsequent to the hearing request, the Department requested proof of her shelter expenses and Claimant testified that she responded to that request as well in mid to late October 2013. The Department testified that it never received any shelter verification.

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (October 2013), p. 9. Other changes must be reported within 10

days after the client is aware of them. BAM 105, p. 9. These include, but are not limited to, changes in: address and shelter cost changes that result from the move. BAM 105, p. 9.

Based on the foregoing information and evidence, the Department properly calculated Claimant's housing expenses to be \$0. The Department presented credible testimony that it did not receive notice and/or verification of Claimant's shelter expenses. Claimant failed to provide credible testimony that she provided such verification per her responsibility to report such changes. See BAM 105, p. 9.

Then, the Department gives a flat utility standard to all clients responsible for utility bills. BEM 554 (July 2013), pp. 12-13. The utility standard of \$553 (see RFT 255, p. 1.) encompasses all utilities (water, gas, electric, telephone) and is unchanged even if a client's monthly utility expenses exceed the \$553 amount.

Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$553. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,225 adjusted gross income. Fifty percent of the adjusted gross income is \$612. When the Department subtracts the total shelter amount from fifty percent of the gross income (\$553 shelter income minus  $\frac{1}{2}$  of the adjusted gross income), this amount is found to be \$0 because her shelter amount is less than  $\frac{1}{2}$  of the adjusted gross income. Thus, Claimant is not entitled to an excess shelter deduction.

Finally, the Department then subtracts the \$1,225 adjusted gross income from the \$0 excess shelter deduction, which results in a net income of \$1,225. See Exhibit 1. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, the Department determined that Claimant's FAP benefit issuance is found to be \$15. RFT 260 (November 2013), p. 11.

### **DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department (i) acted in accordance with Department policy when it properly denied Claimant's SER application for rent to prevent eviction; (ii) the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it failed to process Claimant's SER assistance for heat, electricity, and water/sewer; and (iii) acted in accordance with Department policy when it properly calculated Claimant's FAP allotment effective November 1, 2013, ongoing.

Accordingly, the Department's FAP decision is AFFIRMED.

Also, the Department's SER decision is AFFIRMED IN PART with respect to the rent to prevent eviction application and REVERSED IN PART with respect to the heat, electricity, and water/sewer application.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Register the SER application for heat, electricity, and water/sewer dated September 27, 2013;
2. Process the application/calculate the SER assistance for heat, electricity, and water/sewer budget from the date of application and as the circumstances existed at the time of application, in accordance with Department policy;
3. Issue supplements to Claimant for any SER assistance for heat, electricity, and water/sewer benefits she was eligible to receive but did not from the date of application; and
4. Notify Claimant in writing of its SER decision in accordance with Department policy.

It is ALSO ORDERED that Claimant's CDC hearing request is DISMISSED.



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

Date Signed: November 21, 2013

Date Mailed: November 21, 2013

**NOTICE OF APPEAL:** 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.

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).

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]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]