

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201335211
Issue No.: 5006, 3015, 1017
Case No.: [REDACTED]
Hearing Date: April 15, 2013
County: Wayne DHS (15)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 April 15, 2013 from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly failed to process Claimant's conditional approval of State Emergency Relief for Electricity.

The second issue is whether DHS properly determined Claimant's income for Food Assistance Program (FAP) benefit eligibility.

The third issue is whether DHS properly denied Claimant's Family Independence Program (FIP) benefits due to excess income.

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 11/21/12, Claimant applied for FIP and FAP benefits.
2. Claimant was a member of a two-person household.
3. On 12/12/12, DHS approved Claimant for a \$450 SER payment subject to a \$99.04 copayment by Claimant.

4. Claimant had until 1/10/13 to verify her copayment was made.
5. Prior to 1/10/13, Claimant informed DHS that she paid \$99.04 to her electric service provider.
6. DHS did not process Claimant's SER approval on the basis that Claimant failed to verify her copayment.
7. Claimant's monthly employment income was \$1282.
8. On 1/16/13, DHS denied Claimant's FIP benefit application due to excess income, in part, based on \$1282 in employment income.
9. On 1/16/13, DHS determined Claimant to be eligible for \$244 in FAP benefits, in part, based on monthly income of \$1282.
10. On 3/11/13, Claimant requested a hearing to dispute the FIP benefit denial, unprocessed SER payment and FAP benefit determination.

CONCLUSIONS OF LAW

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, 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the State Emergency Relief Manual (ERM).

Claimant requested a hearing, in part, to dispute a failure by DHS to make a \$450 SER energy payment. It was not disputed that DHS approved Claimant for a \$450 SER payment subject to a \$99.04 copayment.

If the SER group meets all eligibility criteria but has a copayment, shortfall or contribution, DHS is to not issue payment until the client provides proof that their payment has been made or will be made by another agency. ERM 208 (10/2012), p. 3. Verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made. *Id.*

DHS gave notice to Claimant (see Exhibit 5) that Claimant had until 1/10/13 to report and verify her copayment. During the hearing, Claimant presented DHS with payment receipts verifying that Claimant paid \$99.04 to her energy provider prior to 1/10/13. The only dispute concerned whether Claimant reported the payments to DHS.

Claimant testified that she called her specialist, prior to 1/10/13, and left a voicemail reporting that her copayment was made. The testifying DHS specialist reasonably responded that he was unsure whether Claimant left such a voicemail. Claimant's testimony was mildly suspicious because she implied that she avoided communications

with her specialist. For example, Claimant testified that she dealt with the specialist's supervisor concerning reporting of the copayment. Claimant's preference to not speak with her specialist makes it less likely that she'd report an SER copayment to him. Though Claimant's testimony was imperfect, it was also un rebutted. It is found that Claimant reported an SER copayment by the due date of 1/10/13.

DHS responded that Claimant's approval was properly not processed because Claimant only reported the payment- she did not verify the payment. DHS must help in completing forms, answering inquiries, or obtaining verification. ERM 102 (5/2009), p. 1. DHS is known to have internet access to information from Claimant's energy provider's accounts. Upon learning of Claimant's copayment, DHS could have verified the copayment using their database. It is found that DHS failed to assist Claimant in verifying her SER copayment. Accordingly, the failure by DHS to process Claimant's SER payment was improper.

The Food Assistance Program (formerly known as the Food Stamp 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). DHS administers the FAP pursuant to Michigan Compiled Laws 400.10, *et seq.*, and Michigan Administrative Code R 400.3001-3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the

Claimant also requested a hearing to dispute a FAP benefit determination. Claimant only disputed the amount of employment income factored by DHS in the benefit determination.

It was not disputed that DHS determined Claimant's FAP eligibility based on \$1242 in monthly income. Claimant contended that DHS should have used a smaller amount.

To determine benefit eligibility, for non-child support income, DHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505 (10/2010), p. 5. The 30-day period used can begin up to 30 days before the interview date or the date the information was requested. *Id.*

DHS determined Claimant's FAP benefit eligibility on 1/16/13. DHS used Claimant's employment income from 12/2012 to determine Claimant's income. Based on the application date and processing date, using Claimant's 12/2012 income was consistent with DHS policy.

Claimant received the following gross pays: \$278.24 on 12/7/12, \$290.82 on 12/14/12, \$295.93 on 12/21/12 and \$327.97 on 12/28/12 (see Exhibits 1-2). DHS converts weekly non-child support income into a 30 day period by multiplying the average income by 4.3. *Id.*, p. 6. Multiplying Claimant's average income by 4.3 results in a countable income of \$1242, the same amount calculated by DHS (see Exhibits 3-4). Accordingly, DHS properly determined Claimant's income in determining Claimant's FAP benefit eligibility.

The Family Independence Program (FIP) is a block grant that was established by the Social Security Act. Public Act (P.A.) 223 of 1995 amended P.A. 280 of 1939 and provides a state legal base for FIP. FIP policies are also authorized by the Code of Federal Regulations (CFR), Michigan Compiled Laws (MCL), Michigan Administrative Code (MAC), and federal court orders. Amendments to the Social Security Act by the U.S. Congress affect the administration and scope of the FIP program. The U.S. Department of Health and Human Services (HHS) administers the Social Security Act. Within HHS, the Administration for Children and Families has specific responsibility for the administration of the FIP program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant also disputed a FIP application denial. It was not disputed that the denial was based on excess income. For FIP eligibility, Claimant's countable income is \$1282, the same as it was FAP eligibility.

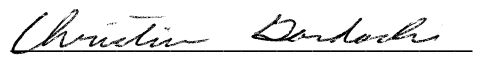
FIP income budget policy is found in BEM 518. DHS is to disregard \$200 and 20% of the remaining earnings from employment income. This creates a net earned income of \$866. DHS is to subtract any child support payments from the net income; Claimant had no such payments.

FIP benefit eligibility is approved if there is a minimum of a \$10 deficit after subtracting the payment standard from the countable income. The payment standard for Claimant's two-person FIP benefit group is \$403. Claimant does not have at least a \$10 deficit. Accordingly, DHS properly denied Claimant's FIP benefit eligibility due to excess income.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's income for FAP benefit eligibility and properly denied Claimant's FIP benefit application dated 11/21/12. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to process Claimant's SER payment for energy assistance. It is ordered that DHS process Claimant's SER decision, dated 12/12/12, subject to the finding that DHS failed to assist Claimant in verifying her copayment prior to the 1/10/13 deadline. The actions taken by DHS are PARTIALLY REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/23/2013

Date Mailed: 4/23/2013

NOTICE: 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 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 error, or other obvious errors in the hearing decision that effect the substantial rights of the 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
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

