

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201340246
Issue No.: 3008; 5016; 5026
Case No.: [REDACTED]
Hearing Date: May 8, 2013
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 May 8, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's husband. Participants on behalf of Department of Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance with shelter emergency and utilities?

Did the Department properly close Claimant's Food Assistance Program (FAP) case?

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 March 28, 2013, Claimant applied for SER assistance with shelter emergency and with water payments.
2. On April 2, 2013, the Department sent Claimant a SER Decision Notice denying her SER application for water bill assistance because she did not provide a shut-off notice and denying her SER application for rent to prevent eviction because the shortfall amount (unmet required payments) was equal to, or greater than, the amount needed to resolve the emergency.

3. In connection with processing Claimant's SER application, the Department sent Claimant a Verification Checklist (VCL) requesting current bank or financial institution statements and paystubs for the last 30 days from Claimant's son-in-law.
4. Claimant timely submitted bank and checking account statements but the paystubs submitted were for March 2013.
5. On April 1, 2013, the Department sent Claimant a Notice of Case Action advising her that effective May 1, 2013, her FAP case would close because she had failed to provide verification of her son-in-law's income.
6. On April 10, 2013, the Department received Claimant's hearing request, protesting the SER denial and FAP closure.

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.

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.

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

Additionally, Claimant requested a hearing disputing the Department denial of her SER applications and the closure of her FAP case.

SER Application

On March 28, 2013, Claimant filed an application for SER assistance to prevent eviction and to assist with payment of her outstanding water bill.

To Prevent Eviction

The SER application to prevent eviction requested \$854.83, which Claimant's husband testified consisted of the remaining balance due to their landlord following a judgment for eviction. Documentation concerning this matter consisted of a Landlord/Tenant Judgment dated January 24, 2013, with a total money judgment of \$4049.83, and a

letter from Claimant's landlord indicating that the outstanding balance as of March 22, 2013 was \$854.83.

The Department denied the application on the basis that the shortfall amount was equal to, or greater than, the amount needed to resolve the emergency. In processing an application for SER assistance with rent arrearage, the Department must verify a client's shelter expenses for the six months preceding the client's application. ERM 303 (March 2013), p 3. If the client has not made required payments, which are actual shelter costs, **and** has no good cause for the nonpayment, the client must pay the shortfall. ERM 303, p 3; ERM 204 (April 2011), p 1. Good cause for a failure to prevent a housing emergency exists if either of the following conditions are met: (i) the SER group's net countable income from all sources during each month the group failed to pay its obligations was less than the amount shown for the SER group size in the good cause table in ERM 204 (which was \$315 for Claimant's SER group of seven), provided that the income was not reduced because of a disqualification of SSI or Department benefits for failure to comply with a program requirement; or (ii) the emergency resulted from unexpected expenses related to maintaining or securing employment, which expenses equal or exceed the monthly obligation. ERM 204, pp 1-2.

The Department presented no documentation at the hearing concerning its calculation of the shortfall amount or its conclusion that the shortfall exceeded the amount requested to resolve the emergency. While Claimant's husband testified that the household had monthly housing expenses of \$1100 that had not been paid in November 2012 and December 2012, which would lead to a shortfall in excess of the \$854.83 requested to resolve the housing emergency, the Department did not present any evidence concerning the household's income during the six months preceding the application to show that the household did not have good cause for the shortfall. Although Claimant's husband verified that his son-in-law, who was a member of Claimant's SER group, had earned income of \$1760 during the SER budgetable income period, this evidence did not establish the group's income during the six months preceding the application. Because the Department failed to establish that Claimant lacked good cause for the shortfall, the Department did not act in accordance with Department policy when it denied the SER application with respect to the request for assistance to prevent the rent eviction.

Utility Services

The SER application regarding the outstanding water bill requested \$881.26. The Department denied this application because there was no shut-off notice provided with the SER application.

The Department must verify actual or possible shutoff of water, sewer or cooking gas service through either (i) a disconnect notice from the utility; (ii) information from the utility provider's secure website; (iii) an overdue or delinquency notice when the water or sewer is not disconnected but the arrearage is added to the local tax bill; or (iv) the client's statement of need for cooking fuel. ERM 302 (March 2013), p 3.

In this case, the SER application included a copy of the water bill with a due date of April 12, 2013, with an outstanding late payment amount of \$881.36. Claimant's husband testified that there was no shut-off notice issued with respect to the outstanding water bill, and none would be issued because overdue amounts were added to the landlord's outstanding tax bill. Under these circumstances, Claimant failed to verify an emergency concerning her water bill. Thus, the Department acted in accordance with Department policy when it denied the SER application for assistance with the \$881.63 water bill.

FAP Case Closure

On April 1, 2013, the Department sent Claimant a Notice of Case Action informing her that her FAP case would close effective May 1, 2013, because verification of the son-in-law's income was not returned. Although the Notice also provided that the case was closing because verification of checking accounts was not received, the Department testified at the hearing that it closed Claimant's FAP case solely because it had not received verification of income from Claimant's son-in-law for February 2013.

The Department must inform the client what verifications are requested, how to obtain it, and the due date. BAM 130 (May 2012), pp 2-3. The Department did not provide a copy of the Verification Checklist (VCL) sent to Claimant concerning the requested income verification. The only documentation provided by the Department concerning the verification requested was a details screen from its system which indicated that the last 30 days of the son-in-law's paystubs were due by March 29, 2013. The Department testified that on March 28, 2013, it received Claimant's son-in-law's paystubs for all of March 2013. The Department testified that, because it did not receive the February 2013 paystubs, it closed Claimant's case.

The Department provided no documentation showing that it requested February 2013 paystubs, and Claimant's husband credibly testified he never received a written request for February paystubs. He added that they were not aware that February paystubs were being requested until he called the worker after receiving the April 1, 2013 Notice of Case Action closing the FAP case, and she told him that the Department was closing his case because February 2013 paystubs had not been provided.

Based on the foregoing evidence, where the VCL requested the last 30 days' paystubs by March 29, 2013, and Claimant provided all of March 2013 paystubs, Claimant properly responded to the VCL, and the Department did not act in accordance with Department policy when it closed Claimant's FAP case for failure to provide requested income verifications.

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) acted in accordance with Department policy when it denied the SER application for assistance with utility services, (ii) did not satisfy its burden of showing that it acted in accordance

with Department policy when it denied the SER application requesting assistance to prevent eviction, and (iii) did not act in accordance with Department policy when it closed Claimant's FAP case.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to denying the SER application requesting utility assistance and **REVERSED IN PART** with respect to denying the SER application requesting assistance to prevent eviction and to closing Claimant's FAP case for failure to provide income verification.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister Claimant's March 28, 2013 SER application;
2. Begin reprocessing the application for assistance with rent eviction in accordance with Department policy and consistent with this Hearing Decision;
3. Begin issuing payment to Claimant's provider in accordance with Department policy for any SER benefits Claimant is eligible to receive;
4. Notify Claimant in writing of its decision regarding the SER application in accordance with Department policy;
5. Reinstate Claimant's FAP case effective May 1, 2013;
6. Begin recalculating Claimant's FAP budget in accordance with Department policy and consistent with this Hearing Decision;
7. Issue supplements to Claimant for any FAP benefits she is eligible to receive but did not from May 1, 2013, ongoing; and
8. Notify Claimant in writing in accordance with Department policy of any FAP supplements due to her.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/16/2013

Date Mailed: 5/16/2013

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.

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

ACE/hw

cc:

