

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201270822
Issue No.: 5016
Case No.: [REDACTED]
Hearing Date: April 22, 2013
County: Wayne County (#76)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted from Detroit, Michigan on Monday April 22, 2013. Participants on behalf of Claimant included [REDACTED] (Representative) and [REDACTED] (Father). Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Family Independence Manager).

ISSUE

Whether the Department properly processed the Claimant's request for State Emergency Relief (SER) and Food Replacement benefits?

FINDINGS OF FACT

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

1. The Claimant is an ongoing FAP recipient with a group size of 2 receiving a monthly allotment of \$367.00.
2. On January 25, 2012, the Department sent Notice of State Emergency Relief (SER) Decision approving the Claimant's request for assistance with utility services through [REDACTED]. (Exhibit 1)

3. The SER decision notice instructed the Claimant to make a copayment of \$899.26 by February 17, 2012 before the Department will authorize an SER payment of \$900.00. (Exhibit 1)
4. On February 13, 2012, the Claimant submitted to the Department proof of having paid the copayment amount.
5. On June 5, 2012, the Claimant's electric power was shutoff for seven days due to the Department's failure to authorize the SER payment as agreed in the January 25, 2012 decision notice.
6. The Department was notified about the shutoff and assisted Claimant with having the power restored as of June 12, 2012, by promising [REDACTED] that the SER payment would be authorized by the Department.
7. The Department was made aware of the Claimant's complaint of food loss in the freezer totaling about \$1000.00, due to the power outage but did not send the Claimant required forms to complete for the replacement of food loss due to an emergency.
8. On August 10, 2012, the Claimant again met with the Department regarding a second DTE shutoff notice due to the Department's failure to make the SER payment as agreed, and again requested reimbursement for the loss of food in June 2012.
9. The Claimant was verbally told by the Department worker to compile a list of lost food from the power outage in order to receive food replacement but was not given a date to submit the list.
10. On August 10, 2012, the Department received the Claimant's written hearing request protesting the Department's delay in processing the request for lost food replacement and making the SER payment to [REDACTED] as agreed.
11. On September 10, 2012, the Department received the Claimant's list of loss food as requested.
12. In October 2012, the Department authorized the SER payment to [REDACTED] on behalf of the Claimant as agreed in the January 25, 2012 decision notice.

CONCLUSIONS OF LAW

As a preliminary matter, the Claimant requested a hearing regarding SER (utility services) and food replacement benefits. The SER issue was resolved prior to hearing when the Department made the SER payment to [REDACTED] in October 2012. Therefore, the SER issue will not be discussed in this decision.

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

The Food Assistance Program ("FAP"), 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"). The Department, formerly known as the Family Independence Agency, administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rules 400.3001 through R 400.3015.

Food Assistance recipients may be issued a replacement of food that has been destroyed in a domestic misfortune or disaster and reported timely. Domestic misfortunes or disasters include events which occur through no fault of the client, such as fires, floods or electrical outages. BAM 502 (October 2012), p. 1. Clients must report any such loss to the Department within 10 days and complete a DHS-601 form describing the loss. BAM 502, p. 1. The Department may replace the amount the client states they have lost up to the value of the current month's allotment. Replacement cannot exceed the current month's benefit. BAM 502, p. 2. The Department is required to act within ten days of the request or two working days after receipt of the signed DHS-601 form. There is no limit to the number of replacements for food purchase with food assistance benefits under the qualifying circumstances.

In this case, the Department was received timely notification of the Claimant's power outage through no fault of her own and the loss of food in June 2012 when it assisted the Claimant with having the electrical power restored by [REDACTED] with a promise to make the SER payment as agreed in the January 25, 2012 decision notice. At which time the Claimant notified the Department that the loss of food totaled about \$1,000.00; and the Claimant's portion of the loss equaled about 1/3 of the total food loss value. Policy provides that the Department provide the Claimant with a DHS-601 form in order to process a request for food replacement. This was not done. Notably, the Department did not request a list describing the food loss from the Claimant until August 10, 2012, when Claimant contacted the Department regarding a second [REDACTED] shutoff notice due to the Department's failure to make the SER payment. The Claimant submitted the requested lost food list to the Department on September 10, 2012. As of the date of hearing, the Department has not processed the Claimant's request for food replacement.

Based on the evidence on record, the Department did not establish that it acted in accordance with policy in the processing of the Claimants request for food replacement benefits. Therefore, the Department action is not upheld.

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 did not act properly when it failed to process the Claimant's report of food loss and request for food replacement benefits.

Accordingly, the Department's FAP decision is hereby, **REVERSED**.

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

1. The Department shall process the Claimant's request for food replacement benefits in accordance with policy.
2. The Department shall issue the food replacement benefits up to the maximum amount of monthly FAP allotment (\$367), if the Claimant is otherwise eligible and qualified.

M. Howie

Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/30/2013

Date Mailed: 4/30/2013

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,

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- 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

MH/hw

cc:

