

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-14295
Issue No(s): 2001, 3008, 5001
Case No.: [REDACTED]
Hearing Date: January 7, 2014
County: Wexford

ADMINISTRATIVE LAW JUDGE: Darryl T. Johnson

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 January 7, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Hearings Coordinator [REDACTED], and Eligibility Specialist [REDACTED].

ISSUES

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

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits?

Did the Department properly determine Claimant's eligibility and deductible for Medicaid (MA) assistance?

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 on-going recipient of FAP.
2. Claimant became unemployed and became eligible to receive unemployment benefits beginning September 15, 2013.
3. Claimant faced a shut-off of her electricity and heating fuel as of October 29, 2013.

4. Claimant has three children, one of whom lives with her full time, and two of whom now live with her fewer days per month than they did when her FAP was originally determined.
5. After calculating Claimant's budget reflecting her unearned income and other factors, Claimant was found to be ineligible for SER, eligible for Medicaid Group 2 Caretaker with a deductible of \$ [REDACTED] per month, and her FAP was reduced from \$ [REDACTED] to \$ [REDACTED] monthly, with the changes effective December 1, 2013.
6. Claimant requested a hearing on November 18, 2013.

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 Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

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.

The Claimant was working for Cornerstone Staffing. Based upon the Monetary Determination from the Unemployment Insurance Agency (Exhibit 1, Page 9), during the base period of April 1, 2012 through March 31, 2013, her wages were \$ [REDACTED]. The UIA set her weekly unemployment benefit at \$ [REDACTED] for a benefit year beginning September 15, 2013.

Claimant's payment history for her electric and gas bills is found at Exhibit 1, Page 10. Her utility payments are shown in the following table:

| Month (2013) | Electric | Gas | Total |
|--------------|----------|-----|-------|
| November | █ | █ | █ |
| October | █ | █ | █ |
| September \$ | █ | █ | █ |
| August | █ | █ | █ |
| July \$ | █ | █ | █ |
| June \$ | █ | █ | █ |
| May \$ | █ | █ | █ |

The \$█ that was paid in October was provided by a local charitable cooperative. The \$█ that was paid in July was provided by the Department. Leading up to the October 19, 2013 scheduled disconnection date, Claimant had accrued a combined electric and gas shut-off balance of \$█ and a past-due balance of \$█. State policy, as expressed in ERM 204, is: "SER does not assist a group who failed to use their available money to prevent a shelter, energy or utility emergency. A client-caused emergency is when an SER group fails to pay required payments for the six-month period prior to the month of application." Also, "Previously issued SER funds cannot be used to make required payments. Contributions from any other source can count toward required payment amounts." Thus, the payment she made with the assistance of the charity can be counted toward the required payments she was to make, but the state assistance cannot be counted. The worker must "Evaluate the payment history for the preceding six-month period to determine the required payment criteria. Required payments are actual shelter costs or required energy and/or utility payments."

There is a provision excusing a claimant from paying their utility bills, as stated in ERM 204. "Good cause for failure to meet obligations for shelter, energy, or utilities exists if:

"The SER group's net countable income from all sources during each month the group failed to pay their obligations was less than the amounts shown for the SER group size in the good cause table in this item.

"The income was not reduced by a disqualification of SSI or department benefits for failure to comply with a program requirement."

| GOOD CAUSE DETERMINATION TABLE | |
|--------------------------------|-------------------|
| SER Group Size | Good Cause Amount |
| 1 \$225 | |
| 2 \$240 | |
| 3 \$255 | |
| 4 \$270 | |
| 5 \$285 | |
| 6 \$300 | |

Inasmuch as Claimant's weekly unemployment benefit was \$█ per week, she does not meet the good cause requirement because her weekly income exceeded the monthly maximum. Because this was a "client caused emergency" Claimant was not eligible for SER.

ERM 301 provides a table which defines the amounts groups must pay each month toward their energy bills. “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.”

TABLE OF MONTHLY ENERGY REQUIRED PAYMENTS

| SER Group Size | Heat Required Payment | Electric Required Payment | Total Monthly Required Payment |
|----------------|-----------------------|---------------------------|--------------------------------|
| 1 | \$40 | \$22 | \$62 |
| 2 | \$53 | \$29 | \$82 |
| 3 | \$64 | \$35 | \$99 |
| 4 | \$78 | \$42 | \$120 |
| 5 | \$90 | \$48 | \$138 |
| 6 | \$107 | \$58 | \$165 |

As a group of 4, Claimant was required to pay at least \$120 per month toward her energy bills. Since she had not done that, she was not eligible to receive SER.

The Department provided a budget (Exhibit 1, Page 21) based upon Claimant’s unearned income through her unemployment compensation. The testimony and documentary evidence support the calculations, and those calculations in turn support the decrease in the amount of FAP available for Claimant.

Claimant has one child who lives with her full-time, and pursuant to her judgment of divorce, she has her two other children with her 150 days per year. Per BEM 135 she is eligible for Medicaid Group 2 Caretaker assistance. Patient-pay amounts are determined according to BEM 546.

“The post-eligibility patient-pay amount is total income minus total need.

Total income is the client’s countable unearned income plus his remaining earned income; see Countable Income in this item.

Total need is the sum of the following when allowed by later sections of this item:

- Patient allowance.
- Home maintenance disregard.
- Community spouse income allowance.
- Family allowance.
- Children's allowance.
- Health insurance premiums.
- Guardianship/conservator expenses.

BEM 546 instructs the Department as follows: “For all persons in this item, determine countable income as follows:

* * *

“Earned and Other Unearned Income.

“Use BEM 500 and 530. For clients, use the FIP- or SSI-related policy as appropriate. Use SSI-related policies for all other persons.

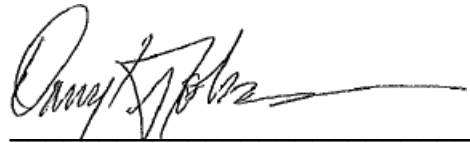
“For the **client only**, disregard \$65 + 1/2 of his or her countable earned income. Use RFT 295 to determine the disregard. Earned income minus the disregard is **remaining earned income**.

Using RFT 295, with unearned income of \$ [REDACTED] per month, Claimant’s monthly deductible would be \$ [REDACTED]

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 acted in accordance with Department policy when it reduced Claimant’s FAP benefits, denied her SER application, and established her medical deductible.

DECISION AND ORDER

Accordingly, the Department’s decision is **AFFIRMED**.



Darryl T. Johnson
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 9, 2014

Date Mailed: January 9, 2014

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

DTJ/las

cc:

