

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

IN THE MATTER OF:

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

Reg. No.: 2014-33245
Issue No(s): 3008; 5001
Case No.: ██████████
Hearing Date: April 21, 2014
County: Van Buren

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 four-way telephone hearing was held on April 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included ██████████; and Claimant's witness/friend, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Assistant Payment Supervisor; and ██████████ Payment Worker.

ISSUES

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

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment in the amount of \$15 effective March 1, 2014, ongoing?

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 is an ongoing recipient of FAP benefits and he received \$15 in benefits for March 2014, ongoing. See Exhibit 1.
2. On March 17, 2014, Claimant applied for SER assistance with home repairs (water pipes) in the amount of \$370 (invoice included). See Exhibit 1.

3. On March 18, 2014, the Department sent Claimant an SER Decision Notice, which denied Claimant's SER request for home repair due to the income/asset co-payment is equal to or greater than the amount needed to resolve the emergency. See Exhibit 1.
4. On March 24, 2014, Claimant filed a hearing request, protesting the SER denial and her FAP allotment. 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 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.

SER denial

As a preliminary matter, it was discovered during the hearing that Claimant had pervious SER application(s). Claimant also indicated in the hearing request assistance for taxes. See Exhibit 1. However, Claimant's hearing request (dated March 24, 2014) referenced a notice date of March 18, 2014. See Exhibit 1. This notice date was the denial for SER assistance with home repairs in the amount of \$370. See Exhibit 1. Moreover, the application (dated March 17, 2014) did not request any assistance for taxes. See Exhibit 1. As such, this hearing will only address the SER denial letter for home repairs in the amount of \$370, which was effective March 18, 2014. See Exhibit 1. See BAM 600 (March 2014), pp. 4-6.

SER assists with home repairs to correct unsafe conditions and restore essential services. ERM 304 (October 2013), p. 1. Non-energy-related repairs include all home repairs for client-owned housing except furnace repair or replacement, which includes plumbing. ERM 304, p. 3. Authorization for payment is only made if the repair(s) is essential to remove a direct threat to health or safety or is required by law or a mobile home park regulation. ERM 304, p. 3. The repair(s) must restore the home to a safe, livable condition. ERM 304, p. 3. The lifetime maximum for non-energy-related home repairs is \$1,500 per SER group. ERM 304, p. 3.

In this case, on March 17, 2014, Claimant applied for SER assistance with home repairs (water pipes) in the amount of \$370 (invoice included). See Exhibit 1. On March 18, 2014, the Department sent Claimant an SER Decision Notice, which denied Claimant's SER request for home repair due to the income/asset co-payment is equal to or greater than the amount needed to resolve the emergency. See Exhibit 1.

The Department determines eligibility or ineligibility for each SER application and service requested. ERM 208 (October 2013), p. 1. In most cases, cash assets in excess of \$50 result in an asset co-payment. ERM 208, p. 1. An asset co-pay cannot be reduced or waived. ERM 208, p. 1.

Also, a group is eligible for non-energy SER services with respect to income if the total combined monthly net income that is received or expected to be received by all group members in the 30-day countable income period does not exceed the standards found in Exhibit I, SER Income Need Standards for Non-Energy Services. ERM 208, p. 1. The income need standard for a SER group size of two is \$500. ERM 208, p. 5.

Income that is more than the basic monthly income need standard for the number of group members must be deducted from the cost of resolving the emergency. ERM 208, p. 1. This is the income co-payment. ERM 208, p. 1.

The income and asset co-payments combined together determine the SER group's total co-payment. ERM 208, p. 2. The total co-payment is the amount the SER group must pay toward their emergency. ERM 208, p. 2. Co-payment amounts are deducted from the cost of resolving the emergency. ERM 208, p. 2.

At the hearing, it was not disputed that the SER group size is two. The Department presented a co-payment budget to show how Claimant's income/asset co-payment is equal to or greater than the amount needed to resolve the emergency. See Exhibit 1. The Department calculated a total unearned income amount of \$2,099, which consisted of both Claimant and his spouse's Retirement, Survivors, and Disability Insurance (RSDI) income. See Exhibit 1. Specifically, the Department calculated Claimant's gross RSDI income to be \$1,215 and the spouse's gross income to be \$884. Claimant's spouse did not appear to dispute these gross amounts; however, she notated that both receive less than these amounts due to Medicare insurance premiums. Claimant's spouse testified that she receives \$731 (net) in RSDI income and her husband receives \$1,110 (net) in RSDI income.

In regards to net unearned income, the Department must deduct payments for health insurance and/or Medicare premiums that will not be reimbursed from the gross amount received. ERM 206 (October 2013), pp. 5-6. However, the budget indicated no deductions for health insurance premiums. See Exhibit 1. Claimant and his spouse have approximately \$258 in Medicare premiums per month. Nevertheless, this is harmless error by the Department for not deducting the health insurance premiums, because Claimant's income/asset co-payment is still equal to or greater than the amount needed to resolve the emergency.

The budget indicated a total net countable income of \$2,099. See Exhibit 1. The Department then subtracted the \$500 income need standard for a group size of two, which results in a final total co-payment amount of \$1,599. See ERM 208, pp. 1, 2, and 5. ERM 103 states that if the co-payment, shortfall, contribution or combination exceeds the need, the application shall be denied unless good cause is granted. ERM 103 (October 2013), p. 4. Because the co-payment amount of \$1,599 exceeds the need amount of \$370 (home repairs), the Department acted in accordance with Department policy when it properly denied the SER assistance request for home repairs effective March 18, 2014. ERM 103, p. 4 and ERM 208, pp. 1, 2, and 5. As stated above, even if the Department included the deductions for Medicare premiums, Claimant's co-payment still exceeds the need amount; thus, it is harmless error by the Department.

FAP budget

As a preliminary matter, Claimant also requested a hearing which disputed his FAP allotment. See Exhibit 1. Because Claimant's hearing request was received in March 2014, this hearing decision will address his FAP allotment for March 2014, ongoing. See BAM 600, pp. 4-6.

In this case, Claimant is an ongoing recipient of FAP benefits and he received \$15 in benefits for March 2014, ongoing. See Exhibit 1. It was not disputed that the group size is two and that the FAP group does contain two senior/disabled/disabled veteran (SDV) members.

The Department presented the April 2014 FAP budget for review, but not the March 2014 budget. See Exhibit 1. Nevertheless, Claimant's spouse testified that she has received \$15 in FAP benefits since January 2014, ongoing. Moreover, the certification period on the budget is for March 1, 2014 to February 29, 2016. See Exhibit 1. As such, the budget properly reflected the March 2014 benefits and it was reviewed during the hearing to determine if the allotment was proper.

The FAP budget indicated a gross unearned income amount of \$2,099. See Exhibit 1. As stated above in the SER analysis, the Department properly calculated the gross unearned RSDI income for both group members. The Department counts the gross benefit amount for RSDI amount as unearned income. See BEM 503 (January 2014), p. 28.

The Department then applied the \$151 standard deduction applicable to Claimant's group size of two. RFT 255 (December 2013), p. 1. The Department also included medical deductions totaling \$556, which Claimant's spouse did not dispute. See Exhibit 1. The Department testified this included the Medicare premiums and additional medical expenses for both the Claimant and spouse. For groups with one or more SDV members, the Department allows medical expense for SDV member(s) that exceed \$35. See BEM 554 (February 2014), pp. 1 and 8 – 12. This resulted in a total adjusted gross income amount of \$1,392 (\$2,099 income minus \$151 standard deduction minus \$556 medical deduction).

Then, Claimant testified that the FAP group does contain SDV members. For groups with one or more SDV members, the Department uses the excess shelter amount. BEM 554, p. 1.

The Department presented an excess shelter budget, which indicated Claimant's monthly housing expense is \$188.25. See Exhibit 1. Claimant's spouse first appeared to dispute this amount; however, she testified that she pays approximately \$2,200 in winter/summer taxes and homeowners insurance (yearly). Dividing \$2,200 by twelve months, results in a monthly housing expense of \$183.

The Department allows a shelter expense when the FAP group has a shelter expense or contributes to the shelter expense. BEM 554, p. 12. Housing expenses include rent, mortgage, a second mortgage, home equity loan, required condo or maintenance fees, lot rental or other payments including interest leading to ownership of the shelter occupied by the FAP group. BEM 554, pp. 12-13. Property taxes, state and local assessments and insurance on the structure are allowable expenses. BEM 554, p. 13. The Department verifies the expense and the amount for housing expenses, property taxes, assessments, insurance and home repairs. BEM 554, p. 14.

Based on the foregoing information, the Department properly calculated Claimant's housing expenses (including property taxes/insurance). Even though the Department did not present evidence of the housing expense calculations, the spouse's testimony determined that the Department properly calculated the amount. BEM 554, pp. 12-14. Claimant's testimony indicated an approximate monthly expense amount of \$183, whereas the budget indicated a higher monthly expense of \$188. See Exhibit 1. As such, the Department properly calculated Claimant's shelter expense as it related similarly to the spouse's testimony.

Then, the Department gives a flat utility standard to all clients responsible for utility bills. BEM 554, pp. 14-15. The utility standard of \$553 encompasses all utilities (water, gas, electric, telephone). RFT 255, p. 1.


Furthermore, the total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit; this amount is found to be \$741. Then, the Department subtracts the total shelter amount from fifty percent of the \$1,392 adjusted gross income. Fifty percent of the adjusted gross income is \$696. When the Department subtracts the total shelter amount from fifty percent of the gross income, this results in an excess shelter deduction of \$45. See Exhibit 1.

Finally, the Department then subtracts the \$45 excess shelter deduction from the \$1,392 adjusted gross income, which results in a net income of \$1,347. 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 properly determined that Claimant's FAP benefit issuance is found to be \$15 effective March 1, 2014, ongoing. RFT 260 (December 2013), p. 17.

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 acted in accordance with Department policy when it (i) properly denied Claimant's SER assistance with home repairs effective March 18, 2014; and (ii) properly calculated Claimant's FAP benefits effective March 1, 2014, ongoing.

Accordingly, the Department's FAP and SER decisions are AFFIRMED.



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

Date Signed: April 25, 2014

Date Mailed: April 25, 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

2014-33245/EJF

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:

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