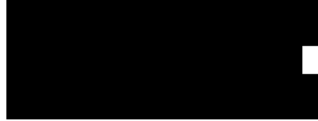


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 14-003230
Issue No.: 3001; 5001
Case No.: [REDACTED]
Hearing Date: JUNE 25, 2014
County: DHS SSPC-EAST

ADMINISTRATIVE LAW JUDGE:

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 June 25, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Assistance Payment Supervisor, and [REDACTED], Assistance Payment Worker.

ISSUE

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) and State Emergency Relief (SER) 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. On May 21, 2014, Claimant filed an online application for SER and FAP benefits.
2. Claimant has three individuals in her group: herself, her husband, and her adult child.
3. Claimant's husband receives gross monthly Retirement Survivors and Disability Insurance (RSDI) income of \$1634 and gross monthly pension income of \$1342.50.
4. Claimant is a 43-year-old part-time college student who is employed part-time.

5. On May 21, 2014, the Department sent Claimant a SER Decision Notice denying the SER application on the basis that the group's countable income exceeded the limit for program benefits.
6. On May 21, 2014, the Department sent Claimant a Notice of Case Action denying the FAP application finding that Claimant was an ineligible student and the group's net income exceeded the net income limit for program benefits.
7. On June 2, 2014, Claimant filed a request for hearing disputing the Department's denial of her FAP and SER application.

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).

Claimant requested a hearing disputing the Department's decision denying her May 21, 2014 application for FAP and SER assistance.

Denial of FAP Application

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

In a May 21, 2014 Notice of Case Action, the Department denied Claimant's FAP application because her net income exceeded the net income limit for the program.

In determining the applicable FAP net income limit, the Department must determine the FAP group size. The Department testified that it excluded Claimant from the FAP group because she was an ineligible student. Students between age 18 and 49 enrolled half-time or more in a vocational school or college are not eligible for FAP benefits unless they meet one of the eligibility criteria outlined in policy, which includes participation in a work study program, employment for at least 20 hours weekly, being mentally or physically unfit to work, or caring for a minor child. BEM 254 (July 2013), pp. 3-4.

In this case, Claimant identified herself as a [REDACTED]-year-old part-time college student in her application. In her application, she indicated that she worked 16 hours weekly. Although Claimant testified at the hearing that she actually worked 20 or more hours per week, neither the application nor the paystubs Claimant submitted to the Department showed 20 or more hours of employment. Because the evidence available to the

Department at the time of application showed that Claimant did not satisfy any of the exceptions for student FAP eligibility, the Department properly excluded her from the FAP group. Thus, there were two eligible FAP group members: Claimant's husband and her son.

The FAP net income limit for a FAP group size of two is \$1293. RFT 250 (December 2013), p. 1. The Department contended that Claimant's FAP group's net income was \$2288 and presented a FAP net income budget showing the calculation of Claimant's net income. The budget was reviewed with Claimant at the hearing.

Claimant confirmed that her husband received gross monthly RSDI income totaling \$1634 and gross monthly pension payments totaling \$1342.50. The total unearned income from these two sources rounded down to the nearest dollar is \$2976, as reflected on the budget. Because Claimant is an ineligible student, the Department properly excluded her earned income. BEM 212 (February 2014), p. 9.

Because Claimant's earned income was excluded from the calculation of her household's FAP eligibility and her husband was a senior/disabled/veteran (SDV) member of the FAP group, Claimant's household's income was eligible for the following deductions under Department policy:

- a standard deduction of \$151 based on the two-person FAP group size (RFT 255 (December 2013), p. 1; BEM 556 (July 2013), p. 4);
- an excess shelter deduction, which takes into account monthly housing expenses and heat and utility expenses (RFT 255, p. 1; BEM 554 (May 2014), pp. 1, 12-15); and
- expenses for child care, child support and medical expenses in excess of \$35 (BEM 554, p. 1).

Claimant confirmed that she had no day care or child support expenses. The FAP budget showed a medical expense deduction totaling \$270. Although Claimant testified that she had substantial out-of-pocket medical expenses exceeding \$270, the Department established that Claimant identified on her application that she had certain medical expenses but did not provide any amounts on the application and the verified medical expenses she submitted with her application made her eligible for a \$270 medical deduction. Under the circumstances presented, the Department acted in accordance with Department policy when it used \$270 for the medical deduction.

The FAP budget showed that, in calculating the excess shelter deduction, the Department relied on monthly mortgage payments of \$991, which Claimant confirmed, and the heat and utility standard of \$553. Clients who submit new FAP applications after May 1, 2014 are not automatically eligible for the \$553 heat and utility standard. BEM 554, p. 15. Rather, the Department must use the individual standard for each utility the FAP group has responsibility to pay. BEM 554, p. 19. However, because the sum of the individual utility standards is less than \$553, the Department's use of \$553 to determine Claimant's FAP eligibility was to her benefit and therefore harmless in this

case. See RFT 255 (December 2013), p. 1. Based on monthly shelter expenses of \$991 and a \$553 heat and utility standard, Claimant's excess shelter deduction was \$266, as shown on the budget.

When Claimant's FAP group's total unearned income of \$2976 is reduced by the \$151 standard deduction, the \$270 medical deduction and the \$267 excess shelter deduction, her group's net income is \$2288. Because \$2288 exceeds the net income limit of \$1293 that applies to Claimant's FAP group, the Department acted in accordance with Department policy when it concluded that the group is not net income eligible for FAP benefits.

Denial of SER Application

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 Mich Admin Code, R 400.7001 through R 400.7049.

In a May 21, 2014 SER Decision Notice, the Department denied Claimant's SER application for assistance with heat and electric payments because her countable income exceeded the income limit for the program.

Heat and electric services are defined as energy services under Department policy. ERM 301 (October 2013), p. 1. For a group to be eligible for energy services, the combined monthly *net* income that is received or expected to be received by all SER group members in the 30-day countable income period beginning on the date the signed SER application is submitted cannot exceed the standard for SER energy/LIHEAP services for the number of group members. ERM 208 (October 2013), p. 1; ERM 301, pp. 3-4. For a group size of three, Claimant's SER group size, the applicable SER income limit is \$2441. ERM 208, p. 6. If Claimant's income during the 30-day countable income period exceeds this limit, the SER request must be denied. ERM 208, p. 1; ERM 206 (October 2013), p. 1.

At the hearing, the Department testified that in determining that Claimant was ineligible for SER benefits, it relied on the household's gross income. However, in calculating Claimant's income eligibility, Department policy requires that the Department deduct certain expenses from the gross amount received. For RSDI income, the Department must consider *net* RSDI benefits received. ERM 206, p 1. For other unearned income, the Department must deduct mandatory withholding taxes and health insurance payments. ERM, 206, p. 4.

In this case, Claimant's husband's monthly net RSDI benefits, as shown on the SOLQ and confirmed by Claimant's, were \$1529. Claimant's husband also received a monthly pension payment in the gross amount of \$1342.50. Claimant testified that, after taxes were withheld from her husband's pension payment, he received only \$1100. Claimant's budgetable income based on her husband's unearned income totals \$2629. Although Claimant also had earned income for the net countable period, because

Claimant's household's SER budgetable income of \$2629 based solely on her husband's income exceeds the \$2441 SER income limit for Claimant's three-person SER group, the Department acted in accordance with Department policy when it denied Claimant's SER application for assistance with gas and electric.

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 denied Claimant's SER and FAP application.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Alice C. Elkin

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

Date Signed: **7/2/2014**

Date Mailed: **7/2/2014**

ACE / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

