

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

**IN THE MATTER OF:**

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

Reg. No.: 14-008829  
Issue Nos.: 3001, 5001  
Case No.: ██████████  
Hearing Date: September 11, 2014  
County: Macomb (20-Warren)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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 September 11, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████  
██████████

**ISSUES**

1. Did the Department properly deny Claimant's application for State Emergency Relief (SER) benefits for relocation assistance?
2. Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits for August 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 was an ongoing FAP recipient.
2. On July 30, 2014, Claimant applied for SER assistance with relocation.
3. On July 30, 2014, the Department sent Claimant (i) a SER Decision Notice denying her SER application and (ii) a Notice of Case Action reducing her monthly FAP benefits to \$15 effective August 1, 2014.
4. On August 4, 2014, Claimant filed a request for hearing disputing the Department's actions.

## **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).

### **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 July 30, 2014, Notice of Case Action, the Department denied Claimant's SER application for assistance with relocation expenses on the basis that Claimant's shortfall amount (for unmet required payments) exceeded 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 (October 2013), p. 4. 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. 4; ERM 204 (March 2013), p. 1; ERM 208 (October 2013), p. 4. Good cause for a failure to prevent a housing emergency exists if either of the following conditions is 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 \$240 for Claimant's SER group of two), 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.

In this case, the Department did not present any evidence concerning Claimant's shelter expenses for the six months preceding her application. In the absence of such evidence, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's SER application.

It is noted that, during the hearing, the Department contended that Claimant's application was also properly denied because she was living with a relative and, therefore, not homeless. See ERM 303, p. 3. However, Claimant testified on the record that she lived with a relative only for a few weeks and, at the time of her July 30, 2014, SER application, she was homeless. Because the Department has failed to establish that Claimant was not homeless at the time of application, it cannot rely on that basis to establish that its action in denying the SER application was proper.

### **Calculation of FAP Benefits**

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.

The Department testified that, once it became aware from Claimant's SER application on July 30, 2014, that Claimant was homeless, it recalculated her FAP benefits to remove the shelter expenses. In a July 30, 2014, Notice of Case Action, the Department notified Claimant that her monthly FAP benefits were decreasing to \$15 effective August 1, 2014. Two issues were presented with respect to the Department's actions: (1) the calculation of the decreased FAP benefit allotment and (2) the effective date of the FAP benefit decrease.

### **FAP Calculation**

The Department presented an FAP net income budget showing the calculation of Claimant's FAP benefits for August 1, 2014, ongoing that was reviewed with Claimant. The budget showed gross monthly earned income totaling \$1,232 that the Department testified was based on the gross pay shown on the employment income information it retrieved from the Work Number, a Department-accessible database in which employers report employee information. Although the Department testified that it relied on the pay information for July 4, 2014, to July 27, 2014, it appears that the Department actually used the pay information for July 11, 2014, to August 1, 2014. The average of Claimant's weekly pay from the four paystubs during that period, multiplied by 4.3 in accordance with Department policy, results in gross monthly earned income consistent with the amount identified as earned income on the FAP net income budget.

The FAP budget also showed unearned income of \$298, which the Department testified was unemployment benefit compensation (UBC) income. Although Claimant acknowledged that she received UBC for under-employment in July 2014, she testified that she was no longer eligible for these benefits in August 2014. The Department did not present any evidence establishing that Claimant was eligible for ongoing UBC benefits. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it prospectively included unearned income in Claimant's FAP budget. BEM 505 (July 2014), p. 5.

The deductions to income on the budget were also reviewed. Claimant acknowledged that she and her child were the only members of her FAP group and that neither was a senior/disabled/veteran (SDV) member of the group. Groups with earned income and non-SDV members are eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter deduction up to \$478, which is based on monthly shelter expenses and the applicable utility standard.
- Court-ordered child support and arrearages paid to non-household members.

- Earned income deduction equal to 20% of the group's earned income.
- A standard deduction based on the FAP group size.

BEM 554 (May 2014), p. 1, 14-22; BEM 556 (July 2013), p. 3; RFT 255 (December 2013), p. 1.

The budget showed a standard deduction of \$151, the applicable standard deduction based on Claimant's two-person group size. RFT 255, p. 1. Based on her \$1,232 gross monthly earned income, her earned income deduction was properly identified on the budget as \$247. Claimant confirmed that she had no child support or day care expenses. Because she was homeless, Claimant had no housing expenses, as shown on the July 30, 2014, Notice of Case Action. The Notice also shows that the Department properly applied the \$553 heat and utility standard, the most favorable standard applicable to a client, because, as an ongoing FAP recipient who had previously received the h/u standard, she is eligible for the h/u standard for five months after the first reported change after May 1, 2014. BEM 554, pp. 15. Therefore, the Department properly calculated the deductions to Claimant's FAP budget.

#### **Effective Date of FAP Benefit Change**

Under the facts presented by the Department, Claimant was entitled to timely notice of a decrease in FAP benefits. A decrease in program benefits is a negative action. BAM 220 (July 2014), p. 10. Except in limited circumstances not applicable in this case, a client must be notified in writing of a negative action concerning his FAP case and, depending on policy, such notice must be either adequate, meaning that the action takes effect when written notice is sent to the client, or timely, meaning that the action takes effect not less than 11 days after notice is mailed. BAM 220, pp. 1, 2, 4-5, 11. When Department policy does not specify that adequate or no notice applies to particular circumstances, a client is entitled to timely notice of a negative action. BAM 220, p. 4.

In this case, Claimant reported a change in shelter expenses when she identified herself as homeless in the July 30, 2014, SER application, and the Department testified that it recalculated Claimant's FAP budget to reflect that she no longer had housing expenses. Adequate notice of a Department action is sufficient for FAP cases where (i) the change was reported in writing and signed by an eligible group member **and** (ii) the new benefit level or ineligibility can be determined based **solely** on the written information. BAM 220, p. 4. However, in addition to considering changes in Claimant's shelter expenses based on the SER application, the Department testified that it also recalculated Claimant's earned income. Because the Department did not determine the new benefit level based *solely* on the change reported on the SER, the Department was required to provide Claimant timely notice of the decrease in her FAP benefits. See also BAM 220, pp. 7, 9; BEM 505 (July 2014), pp. 10-11 (regarding effective dates resulting from income changes).

Because the Department was unable to establish that Claimant's UBC benefits were ongoing, the Department did not act in accordance with Department policy when it calculated her FAP benefits. Furthermore, it did not act in accordance with Department

policy when it failed to apply the correct effective date and provide timely notice of any decrease in benefits.

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 did not act in accordance with Department policy when it recalculated Claimant's FAP benefits for August 1, 2014, ongoing and it failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's SER application.

**DECISION AND ORDER**

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister and reprocess Claimant's July 30, 2014, SER application;
2. Notify Claimant in writing of its SER decision in a DHS-1419, State Emergency Relief Decision Notice;
3. Issue supplements to Claimant (or her provider) for SER benefits she was eligible to receive but did not; and
4. Issue supplements to Claimant for FAP benefits for August 2014 ongoing based on the FAP benefits allotment she received prior to August 1, 2014.

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

Date Signed: **9/15/2014**

Date Mailed: **9/15/2014**

ACE / pf

**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: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]