

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

IN THE MATTER OF:

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Reg. No.: 14-010214
Issue No.: 3002;5001
Case No.: ██████████
Hearing Date: September 22,2014
County: WAYNE-DISTRICT 19

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 22, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's applications 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 July 2, 2014, Claimant submitted an application for FAP benefits.
2. On July 21, 2014, the Department sent Claimant a Verification Checklist (VCL) instructing him to submit requested verifications by July 31, 2014. (Exhibit 1)
3. On August 1, 2014, the Department sent Claimant a Notice of Case Action informing him that his application was denied on the basis that requested verifications were not returned. (Exhibit 2)
4. On August 4, 2014, Claimant submitted a second application for FAP benefits that was approved by the Department.

5. On or around July 30, 2014, Claimant submitted an application for SER assistance with property taxes.
6. On August 1, 2014, the Department sent Claimant a SER Decision Notice informing him that his application was denied on the basis that a group member is not the owner or purchaser of the home. (Exhibit 3b)
7. On August 4, 2014, Claimant submitted an application for SER assistance with property taxes.
8. On August 4, 2014, the Department sent Claimant a SER Decision Notice informing him that his application was denied on the basis that the home cannot be brought to a livable condition within the available SER Home Repair limit. (Exhibit 4)
9. On August 13, 2014, Claimant submitted a hearing request 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).

FAP

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.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2014), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to FAP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if

received by the date they are due. BAM 130, pp.6-7. The Department sends a negative action notice when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, pp.6- 7.

In this case, in connection with the FAP application submitted, the Department testified that it sent Claimant a VCL requesting that he submit verification of his utility expenses and additional information about his employment and shelter, which were unknown. Claimant was instructed to return the verifications by July 31, 2014. (Exhibit 1). The Department stated that it sent Claimant a Notice of Case Action on August 1, 2014, informing him of the denial of the application. (Exhibit 2)

At the hearing, Claimant confirmed that he received the VCL and stated that he submitted all of the requested verifications timely. Claimant credibly testified that after receiving the VCL, he made copies of three pay stubs and his utility bills and scanned them to his computer. Claimant stated that within two days of receiving the VCL, he emailed the Department the requested information. The Department stated that it was unsure if any documents were received or if Claimant contacted the Department concerning the VCL, as the Department representative present for the hearing was not Claimant's assigned Department case worker or supervisor. Therefore, Claimant's testimony was unrefuted.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FAP application based on a failure to verify requested information.

SER

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.

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. Property taxes and fees are considered covered home ownership services for SER. Home ownership services payments are only issued to save a home threatened with loss due to: mortgage foreclosure, land contract forfeiture, tax foreclosure or sale; court ordered eviction of a mobile home from a land or mobile home park and repossession for failure to meet an installment loan payment for a mobile home. ERM 304 (October 2013), pp. 1-2. The lifetime home ownership services maximum is \$2,000. The lifetime maximum is the combined cumulative total of all home ownership service payments. ERM 304, p. 1.

Additionally, other eligibility factors are required prior to the Department approving home ownership services payments for property taxes, including: an SER group member is an owner or purchaser of the home, and that the home is in livable condition and payment will guarantee safe, sanitary shelter both now and in the future. The Department will not approve any home ownership services payments for homes that are not in a livable condition or cannot be brought to a livable condition within the remaining SER home repair limit. ERM 304, p.4. The total amount of tax arrearage for **all** years also cannot exceed \$2,000. The total tax arrearage amount is the total for every year combined, not just for the tax years which assistance is being requested. ERM 304, pp.3-4.

In this case, Claimant submitted two applications for SER assistance with property taxes. The Department testified on August 1, 2014, it sent Claimant a SER Decision Notice informing him that the July 30, 2014, application was denied on the basis that a group member is not the owner or purchaser of the home. (Exhibit 3b). The Department did not provide any additional information concerning the denial and Claimant presented a tax statement with his and his wife's names on it, as well as the address of the home verifying his home ownership. (Exhibit A). The Department confirmed that Claimant submitted a copy of the tax statement to the Department. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's July 30, 2014, SER application.

With respect to the August 4, 2014, SER application, the Department testified that it was denied on the basis that the home cannot be brought to a livable condition within the available SER Home Repair Limit. (Exhibit 4). The Department remained unable to explain the reasons supporting its denial of the application on this basis and failed to provide any information concerning the condition of Claimant's home or the available SER Home Repair Limit. The Department representative present for the hearing testified that she does not know why the supervisor denied the application based on the condition of the home. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's August 4, 2014, SER application.

DECISION AND ORDER

Accordingly, the Department's FAP and SER decisions are 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. Register and process Claimant's July 2, 2014, application for FAP benefits;

2. Issue supplements to Claimant for any FAP benefits that he was entitled to receive but did not from the application date, ongoing;
3. Notify Claimant of the Department's decision in writing;
4. Register and process Claimant's SER applications to determine his eligibility for SER as of the application date;
5. Provide Claimant with any SER assistance that he was entitled to receive but did not from the application date, ongoing; and
6. Issue new SER Decision Notices informing Claimant of the Department's decision in writing.



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

Date Signed: **9/26/2014**

Date Mailed: **9/26/2014**

ZB / cl

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]