

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

IN THE MATTER OF:



Reg. No.: 14-009596
Issue No.: 3001; 5001
Case No.: [REDACTED]
Hearing Date: October 30, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on October 30, 2014, from Detroit, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

The second issue is whether DHS properly denied Claimant's State Emergency Relief (SER) application requesting energy services.

The third issue is whether Claimant is entitled to SER assistance for rent and moving truck rental costs after Claimant's relocation was delayed.

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 6/27/14, Claimant applied for SER assistance (see Exhibit 5) seeking energy services, moving truck rental costs, and \$1,400 in rent and security deposit expenses.
2. As of 7/3/14, Claimant's energy services were not in shut-off threat (see Exhibits 6-7).

3. On [REDACTED], DHS denied Claimant's energy service request due to Claimant not having an emergency (see Exhibits 6-7).
4. On [REDACTED], DHS approved Claimant for \$458 towards rent, subject to a \$942 payment to be paid and verified by Claimant by [REDACTED] (see Exhibits 6-7).
5. DHS failed to process Claimant's request for payment of a moving truck rental.
6. As of [REDACTED] Claimant was unable to move because her subsidized housing agency required the completion of various repairs to her prospective residence.
7. Claimant was an ongoing FAP benefit recipient.
8. Claimant was a member of a 2-person FAP benefit group with a monthly household income of \$1,470.
9. Claimant was responsible for \$369/month in rent and payment of utilities.
10. On [REDACTED], DHS mailed a Notice of Case Action (Exhibits 1-2) informing Claimant that she was eligible for \$30/month in FAP benefits, effective 9/2014.
11. On [REDACTED], Claimant requested a hearing to dispute the reduction of FAP benefits, and failures by DHS to pay for rent, moving expenses, and energy services.

CONCLUSIONS OF LAW

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. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis of the hearing request, it should be noted that the request noted special arrangements in order for Claimant to participate and/or attend the hearing. Claimant testified that she required no special arrangements and the hearing was conducted accordingly.

Claimant requested a hearing, in part, to dispute a reduction in FAP benefits, effective 9/2014. DHS presented testimony that the reduction was caused by a budgeted

reduction in rent. The DHS testimony may be accurate, but the correctness of a FAP benefit issuance cannot be confirmed without considering all FAP budget factors. BEM 556 outlines how FAP benefits are determined.

It was not disputed that Claimant and her child receive \$721/month each in federal SSI benefits and an additional \$14/month in average State of Michigan issued SSI. Claimant's total household income is \$1,470/month.

DHS uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (11/2012), p. 1. For groups without a senior (over 60 years old), disabled or disabled veteran (SDV) member, DHS considers the following expenses: child care, excess shelter (housing and utilities) up to a capped amount and court-ordered child support and arrearages paid to non-household members. For groups containing SDV members, DHS also considers the medical expenses for the SDV group member(s) and an uncapped excess shelter expense. It was not disputed that Claimant's FAP group was an SDV group.

Verified medical expenses for SDV groups, child support and day care expenses are subtracted from a client's monthly countable income. DHS applies a \$35 per month copayment to monthly medical expenses. It was not disputed that Claimant had no day-care, medical, or child support expenses.

Claimant's FAP benefit group receives a standard deduction of \$151. RFT 255 (10/2012), p. 1. The standard deduction is given to all FAP benefit groups, though the amount varies based on the benefit group size. The standard deduction is subtracted from the countable monthly income to calculate the group's adjusted gross income. The adjusted gross income amount is found to be \$1,319.

Claimant testified that her total rent was \$600/month. Claimant also testified that she lives in subsidized housing and was responsible for paying \$369/month in rent. Claimant's testimony implied that DHS should have factored the full \$600 monthly rent obligation.

Bridges (the DHS database) uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554 (5/2014), p. 1. If an expense is partially reimbursed or paid by an agency or someone outside of the FAP group, DHS is to allow only the amount that the group is responsible to pay, unless specific policy directs otherwise. *Id.*, p. 2.

Based on the above-cited policy DHS should only budget the amount of rent for which client is responsible; that amount was \$369/month. Claimant testified that her rent was actually \$0 for 9/2014 because of a judge's order directing Claimant to not pay any rent because of the state of disrepair of her residence. For purposes of this decision, \$369 will be found to be the proper amount to budget.

The heat/utility (h/u) standard covers all heat and utility costs including cooling, except actual utility expenses, for example, installation fees. *Id.*, p. 14. FAP groups that qualify for the h/u standard do not receive any other individual utility standards. *Id.*, p. 15. The utility standard is \$553 (see RFT 255 (10/2013, p. 1). It was not disputed that DHS factored the full utility standard of \$553 in determining Claimant's FAP eligibility.

The total shelter obligation is calculated by adding Claimant's housing expenses to the utility credit. This amount is found to be \$922.

DHS only credits FAP benefit groups with what DHS calls an "excess shelter" expense. This expense is calculated by taking Claimant's total shelter obligation and subtracting half of Claimant's adjusted gross income. Claimant's excess shelter amount is found to be \$263 (rounding up to nearest dollar).

The FAP benefit group's net income is determined by taking the group's adjusted gross income and subtracting the allowable excess shelter expense. The FAP benefit group's net income is found to be \$1,056. A chart listed in RFT 260 is used to determine the proper FAP benefit issuance. Based on Claimant's group size and net income, Claimant's proper FAP benefit issuance is found to be \$30, the same amount calculated by DHS (see Exhibits 3-4).

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. Department policies are contained in the Department of Human Services Emergency Relief Manual (ERM).

Claimant requested a hearing, in part to dispute a SER application denial requesting assistance with energy service payments. It was not disputed that DHS denied Claimant's SER because Claimant's energy services were not in shut-off threat.

When the group's heat or electric service for their current residence is in threat of shutoff or is already shut off and must be restored, payment may be authorized to the enrolled provider. ERM 301 (10/2013), p. 1. Payment must resolve the emergency by restoring or continuing the service for at least 30 calendar days. *Id.* DHS is to verify actual or threatened shutoff or the need for reconnection of natural gas or electricity, by contacting the energy company. *Id.*, p. 9.

Claimant testified that she is responsible for an unspecified large monthly payment to her energy service provider. Claimant contended that she always makes her payment but that making timely payments was increasingly difficult. Claimant conceded that she had not missed any payments and that her energy services were not in shut-off threat. Without a shut-off threat, Claimant is not eligible for SER. It is found that DHS properly denied Claimant's request for energy services assistance.

Claimant also requested a hearing, in part, to dispute the DHS failure to process Claimant's SER payment for rent/security deposit. DHS approved Claimant for a \$458 payment, subject to a \$942 copayment by Claimant, to be made by [REDACTED].

DHS initially contended that Claimant failed to submit proof of her copayment by the deadline of [REDACTED]. During the hearing, and after checking their database, DHS conceded that Claimant timely submitted proof of her copayment. Thus, it appears that DHS improperly failed to process Claimant's SER payment for rent.

Claimant testified that she was unable to move in to her requested residence because her subsidized housing agency required that the landlord perform certain repairs. Claimant also testified that her landlord refunded her \$942 copayment. Claimant also testified that the repairs were not completed until 9/2014.

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 301 (10/2013), p. 1. The issuance amount must resolve the group's shelter emergency. *Id.*

Technically, a DHS payment could not have resolved Claimant's emergency within the 30 day period of application. If Claimant was unable to move into her prospective residence, through no fault of DHS, during the 30 day period following her application, it is more appropriate to require Claimant to reapply for SER rather than to order DHS to reprocess a previously submitted application. The below order reflects this preference.

Claimant also requested a hearing to dispute a failure by DHS to evaluate her eligibility for moving truck rental expenses. DHS conceded that Claimant's request was overlooked. Though DHS erred in failing to process Claimant's eligibility, again, the appropriate remedy under the present case's circumstances is for Claimant to reapply.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly determined Claimant's FAP eligibility to be \$30, effective 9/2014. It is also found that DHS properly denied Claimant SER request for energy services. It is further found that DHS may have erred in the processing of Claimant's SER relocation request, but that Claimant is not entitled to a remedy because she was unable to move within the 30 days following her SER application.

The actions taken by DHS are **AFFIRMED**.



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

Date Signed: **11/6/2014**

Date Mailed: **11/6/2014**

CG / hw

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:

