

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-000953
Issue No.: 3008; 5007
Case No.: [REDACTED]
Hearing Date: May 13, 2014
County: Macomb- 12

ADMINISTRATIVE LAW JUDGE: Michael S. Newell

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 May 13, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly determine Claimant's FAP allotment?

Did the Department properly deny Claimant SER application?

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 March 28, 2014, the Department issued a Notice of Case Action awarding Claimant \$ [REDACTED] per month in FAP effective, March 12, 2014, with prorated benefits for March of \$ [REDACTED]
2. On April 8, 2014 Claimant requested a hearing for a denial of Claimant 's SER application and for Claimant's FAP allotment
3. The Department provided no documents regarding SER, did not address the matter on the Hearing Summary, and was not prepared to address the issue at the hearing.

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 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 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.

Additionally, The Department's computer system known as "Bridges" uses certain expenses to determine net income for FAP eligibility and benefit levels. BEM 554. For groups with no senior/disabled/disabled veteran (SDV) member, Bridges uses the following: (1) dependent care expense; (2) excess shelter up to the maximum in RFT 255; (3) court ordered child support and arrearages paid to non-household members. BEM 554. For groups with one or more SDV member, Bridges uses the following; see BEM 550: (1) dependent care expense; (2) excess shelter (3) court ordered child support and arrearages paid to non-household members; and (4) medical expenses for the SDV member(s) that exceed \$35. BEM 554.

The Department shall complete either a manually-calculated or Bridges budget to document expenses every time an expense change is reported. BEM 554. The Department must verify the responsibility to pay and the amount of certain expenses. BEM 554. The Department must document verification in the case record. BEM 554. The Department shall not budget expenses that require verification until the verification is provided. BEM 554. The Department must determine eligibility and the benefit level without an expense requiring verification if it cannot be verified. BEM 554. The Department treats subsequently provided verification from an eligible FAP group as a change. A supplement for lost benefits is issued only if the expense could not be verified within 30 days of the application and the local office was at fault. BEM 554.

Expenses are used from the same calendar month as the month for which the Department is determining benefits. BEM 554. Expenses remain unchanged until the FAP group reports a change. BEM 554. The Department determines the amount of monthly income from biweekly checks by averaging any biweekly check and multiplying the average biweekly check amount by 2.15. RFT 505. The Department determines the amount of monthly income from weekly checks by averaging the weekly checks and multiplying the average by 4.3.

Claimant's total gross income during the relevant period was \$ [REDACTED]. The Department properly determined Claimant's adjusted gross income to be \$ [REDACTED]. Claimant's Standard Deduction of \$ [REDACTED] is appropriate, as is the medical deduction of \$ [REDACTED]. RFT 255.

The Excess Shelter deduction of \$ [REDACTED] property reflected the housing cost of \$ [REDACTED] and utility deduction of \$ [REDACTED] minus 50% of Adjusted Gross Income. See BEM 554, 556.

RFT 260 provides that a FAP group of four with a net income \$ [REDACTED] would be eligible to \$ [REDACTED] per month in FAP benefits if otherwise eligible. The Department did not err in determining Claimant's monthly FAP benefits.

Claimant testified that her income outweighed her expenses. The Department is only authorized by law and policy to account for those expenses and deductions previously addressed herein.

Claimant testified that she had more medical expenses than \$ [REDACTED] and that her housing expenses were a few dollars more than the amount alleged by the Department. Claimant provided no documentation for the hearing to support the allegations.

Regarding the SER application denial, the Department did not prepare to address this issue for the hearing. The Department has thus failed to meet its burden of proof regarding SER.

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 calculated the FAP allotment and 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 **AFFIRMED IN PART** with respect to Claimant's FAP allotment and **REVERSED IN PART** with respect to the SER denial.

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. Reinstate the SER application and redetermine eligibility.



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

Date Signed: **5/29/2014**

Date Mailed: **5/29/2014**

MSN/las

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:

