

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

IN THE MATTER OF:

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

Reg. No.: 14-007090
Issue Nos.: 3008, 5001
Case No.: ██████████
Hearing Date: August 20, 2014
County: Macomb (12-Mt Clemens)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

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, August 20, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) include ██████████
██████████

ISSUE

Did the Department properly calculate Claimant's Food Assistance Program (FAP) benefits and deny his State Emergency Relief (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 June 18, 2014, Claimant applied for FAP and SER benefits.
2. On June 20, 2014, the Department sent Claimant an SER decision notice informing him that his SER application had been denied.
3. On July 3, 2014, the Department sent Claimant a notice of case action informing him that his FAP application had been approved beginning at July 1, 2014.
4. On June 22, 2014, Claimant requested a hearing to protest the denial of his SER application and the Department's calculation of his FAP benefits.
5. On July 22, 2014, there was a prehearing conference held between the Department and Claimant.

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.

Although Claimant requested a hearing on the Department's FAP, SER and cash assistance decisions, the Department testified that Claimant never applied for cash assistance. This was not challenged by Claimant, therefore, Claimant's request to review the Department's decision concerning cash is DISMISSED.

SER

The SER decision notice states that Claimant's copayment for the utility services is equal to or greater than the amount needed to resolve the emergency. ERM 302 (October 2013).

FAP

The Department originally registered Claimant's application date of June 18, 2014, as having been submitted June 27, 2014. The Department testified that it had corrected the error and now showed Claimant's application as having been submitted on June 18, 2014. .

The Department further testified that it had corrected an error in its calculation of Claimant's FAP benefits, but that the corrected benefits did not begin until July 1, 2014.

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 application..

- did not act in accordance with Department policy when it began Claimant's FAP benefits on July 1, 2014.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it .

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
- REVERSED.
- AFFIRMED IN PART with respect to the Department's SER decision and REVERSED IN PART with respect to the Department's FAP calculation.
- 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. Return to the date of Claimant's actual application of June 18, 2014, and supplement for FAP benefits back to the date of that June 18, 2014, application.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **9/2/2014**

Date Mailed: **9/3/2014**

MJB / 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]