

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

IN THE MATTER OF:

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

Reg. No.: 14-007916
Issue Nos.: 3001, 5001
Case No.: ██████████
Hearing Date: August 27, 2014
County: Wayne (57-Conner)

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 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████

ISSUE

Did the Department properly deny Claimant's Food Assistance Program (FAP) and State Emergency Relief (SER) benefits applications?

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 3, 2014, Claimant applied for SER and FAP benefits.
2. On July 8, 2014, the Department sent Claimant a State Emergency Relief Decision Notice informing her that her SER application had been denied.
3. On July 8, 2014, the Department sent Claimant a notice of case action informing her that her FAP application had been denied.
4. On July 16, 2014, Claimant requested a hearing to protest the denial of her July 3, 2014, applications for SER and FAP.

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.

At the hearing, the Department presented a notice sent to Claimant informing her that her SER application had been denied because the application was not made during the crisis season which runs from November 1 through May 31. However, Claimant did not apply for emergency services for energy but for non-heat electricity and water or sewage. The Department's restrictions relating to the "crisis season" do not apply to either of these services. In any event, Claimant testified that she was able to make other arrangements to settle her utility and water bills. The request for the hearing based on the SER denial is, therefore, DISMISSED.

In addition to the SER notice, the Department also sent Claimant a notice of case action denying Claimant's FAP application because of excess income. Claimant testified that she was not a "contract teacher" but a long-term substitute teacher. Claimant further testified that she did not have the option of extending her pay throughout the summer like a contract teacher does. The Department used check stubs, provided by the Claimant, to prospectively assign the same income Claimant received in June throughout the rest of the summer. In fact, Claimant had no income after June 24, 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 .
- did not act in accordance with Department policy when it denied the Claimant's FAP application for excess income.
- 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.
 DISMISSED IN PART with respect to SER and REVERSED IN PART with respect to FAP.

- 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. Recalculate Claimant's FAP benefits based on the knowledge that Claimant received no income after June 24, 2014.



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]