

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

IN THE MATTER OF:



Reg. No.: 14-014588
Issue No.: 3008, 5001
Case No.: [REDACTED]
Hearing Date: November 26, 2014
County: INGHAM

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 November 26, 2014, from Lansing, Michigan. Participants on behalf of Claimant included herself and [REDACTED] Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (Department) included Hearing Facilitator [REDACTED]

ISSUE

Did the Department properly determine Claimant's Food Assistance Program eligibility on October 10, 2014?

Did the Department of Human Services' properly deny Claimant's September 11, 2014, State Emergency Relief Program application for relocation assistance?

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 September 11, 2014, Claimant submitted an application for Food Assistance Program benefits and State Emergency Relief Program relocation assistance. (Pages 1-15) On page 6 Claimant stated "Need to move into a house to be able to bring my children home". On page 7 Claimant stated "To acquire proper living conditions for my children who are in foster care, so they can come home".
2. On September 19, 2014, Claimant was sent an Application Notice (DHS-1150) which stated her State Emergency Relief Program application was denied because she did not have a Court ordered eviction notice in accordance with State Emergency Relief Manual (ERM) 303.

3. On October 10, 2014, Claimant was sent a Notice of Case Action (DHS-1605) which stated she was eligible for \$ [REDACTED] per month of Food Assistance Program benefits from October 1, 2014 ongoing.
4. On October 16, 2014, Claimant submitted a hearing request.

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).

Food Assistance Program

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.

During this hearing Claimant asserted that all the child support she pays was not included in the Food Assistance Program financial eligibility budget. The Food Assistance Program financial eligibility budget used by the Department in this eligibility determination shows a \$ [REDACTED] child support deduction. Claimant submitted an Income Withholding Order for Support issued by the Ottawa County Friend of the Court dated September 17, 2014. The order is to Claimant's employer and states that a total of \$ [REDACTED] must be deducted from Claimant's pay.

State Emergency Relief Program

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.

The Application Notice (DHS-1150) sent to Claimant states that her State Emergency Relief Program application was denied because she did not have a Court ordered eviction notice in accordance with State Emergency Relief Manual (ERM) 303. Claimant testified that she was in the process of trying to get her four children out of foster care and back into her custody.

Relevant sections of State Emergency Relief Program Manual 303 Relocation Services (2013) provide:

ELIGIBILITY REQUIREMENTS

Authorize relocation services only if one of the following circumstances exists and all other SER criteria are met.

Homeless

The SER group is homeless. The definition of homeless includes:

Persons exiting jail, prison, a juvenile facility, a hospital, a medical setting, **foster care**, a substance abuse facility or a mental health treatment setting with no plan or resources for housing and no housing to return to.

VERIFICATION SOURCES

Homelessness

Statement from the releasing facility for persons exiting jail, prison, a juvenile facility, a hospital, a medical setting, **foster care**, a substance abuse facility or a mental health treatment setting indicating there is no available housing and the person has no residence to return to.

Potentially Homeless

Written statement from DHS services worker or DHS specialist, approved by a manager, when:

The family needs adequate, affordable housing to avoid a foster care placement or so children in foster care can return home.

Claimant clearly described her circumstances and need for relocation assistance on the State Emergency Relief Program application. ERM 303, cited above, clearly shows that Claimant's situation met the eligibility criteria. The Department should not have denied the application. The correct action in accordance with ERM 303 was to request verification of Claimant's situation.

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 determined Claimant's Food Assistance Program eligibility on October 10, 2014.

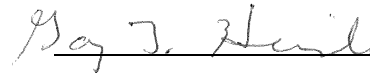
Additionally, the Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it deny Claimant's September 11, 2014, State Emergency Relief Program application for relocation assistance.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED** with regard to both Claimant's Food Assistance Program benefit amount and State Emergency Relief Program eligibility.

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. Re-determine Claimant's Food Assistance Program eligibility from October 1, 2014 ongoing and issue her a new eligibility notice.
2. Reinstate Claimant's September 11, 2014, State Emergency Relief Program application for relocation assistance and process it in accordance with Department policy.



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

Date Signed: **12/9/2014**

Date Mailed: **12/9/2014**

GFH/hj

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 48909-8139

cc:

