

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201420960
Issue No(s): 3001; 3007; 5004
Case No.: [REDACTED]
Hearing Date: January 30, 2014
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 January 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], ES, and [REDACTED], APS.

ISSUE

Did the Department properly deny claimant's SER application?
Did the Department properly fail to process an SER application?
Did the Department properly compute claimant's income for the FAP program?
Did the Department properly determine claimant's group size for the FAP program?

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 [REDACTED], Claimant applied for SER for water and electric assistance.
2. The application for water was denied on [REDACTED], for failure to establish an emergency; the application for energy assistance was denied for a non-crisis season.
3. Claimant alleged that she filed a subsequent application for SER assistance in [REDACTED].

4. In calculating the claimant's FAP budget, claimant's household was considered as a group size of two.
5. One of claimant's children is currently attending college, and only returns to the home once per month.
6. Claimant receives child support, both for arrearages and current payments.
7. Claimant requested a hearing on [REDACTED], alleging that her FAP benefit was incorrectly calculated, and that her SER was not properly processed, or was denied incorrectly.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

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 by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

With regard to the [REDACTED] SER application, the undersigned finds that the claimant's application was properly denied. In order to be eligible for SER, the applicant must have an emergency. ERM 101. With regard to claimant's request for water assistance, the Department showed that there was no current shut-off notice. As such, claimant did not have an emergency, and the application was properly denied.

With regard to claimant's request for energy assistance, the non-crisis season runs [REDACTED]. Requests for assistance during that time period will be denied. ERM 301. Claimant's application was on [REDACTED]. Therefore, claimant was correctly denied energy assistance for this application.

Claimant also contested that she had requested SER assistance sometime in [REDACTED]. However, claimant submitted no evidence showing that she had filed an application, though claimant was given an opportunity to do so. Therefore, as there is no evidence showing an SER application filed in [REDACTED], and as the Department credibly testified that there was no record of a [REDACTED] filing date for an SER application for the claimant, the undersigned holds that the claimant did not file a [REDACTED] application for SER, and the Department had no duty to process an application that was not filed.

With regard to claimant's FAP group size, claimant testified that her son was currently away at college and only returned home once per month for a day or two. In order to be considered a FAP group member, a potential group member must be living with the income group. Living with means sharing a home where family members usually sleep and share any common living quarters such as a kitchen, bathroom, bedroom or living

room. BEM 212. As claimant's son does not share a home normally with the rest of the group, he cannot be said to be living with the group, and thus, cannot be considered a group member, regardless of his student status. As such, the Department was correct to not include this person as a group member.

Finally, with regard to claimant's FAP budget, the undersigned finds no errors that are beneficial to the claimant. The Department appears to have correctly included claimant's earned income. With regard to the unearned income, the undersigned determines that the Department properly used claimant's child support. While claimant submitted other child support records, an examination and comparison with the Department records showed that they were largely identical. Any discrepancies showed, at most, that the Department may have used less income in claimant's budget than allowed, but any potential error would not have impacted claimant's allotment.

Furthermore, the records submitted by the claimant were, at most, bare outlines of what claimant may have received, and were difficult to assign a particular evidentiary value. The records did not contain case names, break downs of disbursements, or monthly allocations. Furthermore, there was no indication that the records supplied by the claimant were complete. As such, the records were given little evidentiary weight, and the Department's records, which included specific breakdowns and were secured by direct communication with the appropriate State departments, are considered more conclusive.

As such, the undersigned must hold that the Department correctly calculated claimant's FAP budget.

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 and calculated claimant's FAP budget.
- did not act in accordance with Department policy when it .
- 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 and REVERSED IN PART with respect to .
- 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:



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/12/2014

Date Mailed: 2/12/2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

RJC/hw

cc:

