

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

IN THE MATTER OF:

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

Reg. No.: 14-019333
Issue Nos.: 3008, 5004
Case No.: ██████████
Hearing Date: February 4, 2015
County: Wayne (49-Gr River/Warren)

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 February 4, 2015, 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 calculate Claimant's Food Assistance Program (FAP) benefits and properly process Claimant's State Emergency Relief (SER) benefits 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 September 29, 2014, Claimant applied for SER rent benefits to avoid eviction.
2. Claimant was ongoing recipient of FAP benefits.
3. On October 7, 2014, the Department sent Claimant a State Emergency Relief Decision Notice informing her that her request for SER assistance was approved with a Claimant payment of \$392.00.
4. On December 30, 2014, the Department sent Claimant a second State Emergency Relief Decision Notice informing her that her SER application had been approved with Claimant paying \$497.00.

5. On December 29, 2014, Claimant requested a hearing to protest the failure of the Department to process her SER application and the amount of her FAP benefit.

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.

FAP

Although Claimant clearly requested a hearing on the amount of her FAP benefits, the Department was not prepared to address that issue.

SER

At the hearing, Claimant presented a ledger history showing that she had paid the portion of her rent as demanded by the Department's notice on October 20, 2014. Claimant further testified that she sent the documentation of her having paid her portion of the rent by facsimile on the date that it was paid on October 20, 2014. The Department argued that the documentation presented by Claimant at the hearing was date-stamped December 29, 2014, and had not been received prior to that date.

This Administrative Law Judge finds it credible that Claimant, concerned about eviction, would have provided the Department with the documentation of her payment on the earlier date October 20, 2014. ERM 303 (October 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 failed to provide the emergency rent relief after Claimant paid her portion of the unpaid rent as outlined in the October 7, 2014, State Emergency Relief Decision Notice.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to address Claimant's request for a hearing on the amount of her FAP benefits.

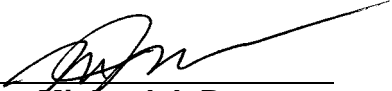
DECISION AND ORDER

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:

1. Pay Claimant's housing provider \$215.00, the amount outlined in its October 7, 2014, State Emergency Relief Decision Notice.
2. Recalculate Claimant's FAP benefits and provide Claimant with a detailed budget of same.



Michael J. Bennane
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/23/2015**

Date Mailed: **2/23/2015**

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 48909-8139

CC:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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