

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-006339
Issue No.: 3008, 5001
Case No.: [REDACTED]
Hearing Date: June 2, 2015
County: Kent-District 1 (Franklin)

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on June 2, 2015, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included Family Independence Manager [REDACTED] and Eligibility Specialist [REDACTED].

ISSUE

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

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant applied for SER on March 27, 2015, requesting assistance in paying a security deposit and moving expenses.
2. When she applied, Claimant was staying in a hotel at her own expense.
3. The Department denied Claimant's application on March 27, 2014, determining that she did not have an emergency. (Exhibit A Page 12.)
4. On March 31, 2015, Claimant applied again for SER, requesting assistance again with a security deposit and moving expenses.

5. When she applied, Claimant had \$ [REDACTED] in cash (Exhibit A Page 22) and she needed \$ [REDACTED] for moving her household belongings, \$ [REDACTED] for the security deposit, and \$ [REDACTED] for the first month's rent.
6. Claimant provided the Department with a statement showing that, as of April 1, 2015, she had \$ [REDACTED] in a bank account.
7. On April 2, 2015, the Department denied her application finding her assets were greater than the amount needed to resolve her emergency. (Exhibit A Page 30.)
8. Claimant eventually moved from a hotel in [REDACTED] County to an apartment in [REDACTED] County, but she lacked the money to move most of her personal belongings and she has been sleeping on the floor in the apartment.
9. On April 9, 2015, Claimant again applied for SER, requesting assistance with her security deposit and moving expenses.
10. On April 17, 2015, the Department denied her application finding that her emergency had been resolved. (Exhibit A Page 49.)
11. On April 17, 2015, the Department mailed to Claimant a Notice of Case Action increasing Claimant's FAP to \$ [REDACTED] per month.
12. The Department received Claimant's hearing request on April 13, 2015, and another on April 30, 2015, contesting the SER and FAP decisions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

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 Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

In this case, Claimant was living in a hotel when she first applied for SER. There was no evidence that she had any place to return to. Instead, the evidence shows that she was looking for an apartment that would accept her in light of her low credit score and past eviction, and she did not find a home anywhere in ██████████ County. She had to go so far as finding an apartment in ██████████ County.

The applicable SER policy is in Emergency Relief Manual (ERM) 303 (10/1/13). At pages 1-2, the policy allows the Department to grant SER in cases of homelessness.

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 living in an emergency shelter or motel, in HUD-funded transitional housing for homeless persons who originally came from the street, in a car on the street or in a place unfit for human habitation and there is no housing they can return to. Groups who voluntarily left their home, but can return without a threat to their health or safety, are not homeless.

The testimony from Claimant, which was not disputed by the Department, is that Claimant was living in a hotel, and that she had no place to return to. From the hotel she moved into her car. Therefore, she was “homeless” and eligible for assistance, provided she met all other SER criteria.

COVERED SERVICES

Accept the decision of the SER group regarding use of the relocation funds authorized. The issuance amount must resolve the group's shelter emergency. Authorize any combination of the following services:

- First month's rent.
- Rent arrearage.
- Mobile home lot rent for owners or purchasers is a Home ownership service found in ERM 304.
- Mobile home lot rent for renters is a relocation service covered by this Item.

- Security deposit (if required).
- Moving expenses (to relocate household effects).

Example: Group A decides to use their entire relocation services amount for a rent arrearage; Group B wants to use their relocation services amount for the first month's rent on a new apartment; Group C requests first month's rent and rental of a U-Haul trailer. Process payments for these situations as requested.

The Department could have provided Claimant with her assistance toward her first month's rent, the security deposit, and moving expenses. The Claimant requested \$ [REDACTED] for moving expenses, \$ [REDACTED] for rent, and \$ [REDACTED] for the security deposit. (Exhibit A Page 5.) At the time, she did not have a state-approved moving company arranged. However, the policy allows rental of a trailer as explained in the example above, so applicants can be approved for expenses other than those of a state-approved provider. The policy allows a group of 1 up to \$ [REDACTED] for relocation services. ERM 303 at 7. She had total relocation expenses of \$ [REDACTED]. As stated in the policy, the issuance amount must resolve the group's shelter emergency. When she applied she had just \$ [REDACTED] in the bank. If she were granted the maximum of \$ [REDACTED] she would have only had \$ [REDACTED] and that would not have resolved the emergency.

Claimant was caught between the proverbial rock and a hard place. She was homeless and needed to get into an apartment, and she had some money in the bank, but she didn't have enough. Even with SER, she would not have enough. Eventually, she was able to gather enough to get into the apartment, but she had to leave her belongings behind. Now that she is not homeless, she lacks the need for the relocation services. The Department might have given the incorrect reason in its original denial, but nonetheless a denial was the correct action. However, when the Department denied her second application on April 2, 2015, it used the wrong reason. It said her income/asset copayment is equal to or greater than the amount needed to resolve the emergency. With excess cash assets of \$ [REDACTED] (Exhibit A Page 32) at that time, she was \$ [REDACTED] below what she needed to pay the rent and security deposit. That was less than the maximum grant amount that could have been granted. The Department erred. Had it allowed her the \$ [REDACTED] her emergency could have been resolved fully by allowing her to move herself and her belongings into the apartment. By denying her application she was only able to move herself and she had to leave many of her belongings behind.

Regarding her FAP, the Claimant's income and expenses were reviewed during the hearing. There was no evidence that the Department erred in determining her FAP award.

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 March 27, 2015 and April 9, 2015 SER application and when it determined her FAP allotment. The Department did not act in accordance with Department policy when it denied Claimant's April 2, 2015 SER application.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to the March 27, 2015, and April 9, 2015, SER application and when it determined her FAP allotment and **REVERSED IN PART** with respect to the April 2, 2015, SER application.

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. Redetermine Claimant's eligibility for SER as of April 2, 2015, and provide her with benefits if appropriate.



Darryl Johnson
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/3/2015**

Date Mailed: **6/3/2015**

DJ/jaf

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

