

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-001024
Issue No.: 3001; 5001; 5004
Case No.: ██████████
Hearing Date: February 19, 2015
County: WAYNE-DISTRICT 15
(GREYDALE)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on February 19, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Eligibility Specialist

ISSUES

Did the Department properly deny Claimant's Food Assistance Program (FAP) application dated December 29, 2014?

Did the Department properly deny Claimant's State Emergency Relief (SER) program application for property taxes dated December 29, 2014?

Did the Department properly process Claimant's eligibility for FAP benefits and SER assistance for property taxes dated December 29, 2014?

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 December 29, 2014, Claimant applied online for SER assistance for property taxes. See Exhibit 1, p. 4.
2. On December 29, 2014, Claimant applied online for FAP benefits. See Exhibit 1, p. 4.

3. On December 30, 2014, the Department sent Claimant an Application Notice notifying her as to the following: (i) her SER application was denied because she did not have a shutoff notice; (ii) her FAP application was denied because she failed to meet the interview requirements; and (iii) her CDC application was denied because she failed to provide the Department with information needed to determine eligibility. See Exhibit 1, p. 3.
4. The Application Notice failed to address whether Claimant's SER assistance request for property taxes was approved or denied. See Exhibit 1, p. 3.
5. On an unspecified date, the Department indicated that it reinstated Claimant's FAP benefits back to the date of application as Claimant completed the interview requirements.
6. On January 22, 2015, Claimant filed a hearing request, protesting her FAP denial and SER assistance for property taxes. See Exhibit 1, p. 2.

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.

Preliminary matters

First, on December 29, 2014, Claimant applied for SER assistance for property taxes and non-heat electricity. See Exhibit 1, p. 4. On January 22, 2015, Claimant filed a hearing request, protesting her SER assistance for property taxes. See Exhibit 1, p. 2. A review of Claimant's hearing request did not discover any dispute with her SER request for non-heat electricity. See Exhibit 1, p. 2. Therefore, this Administrative Law Judge (ALJ) lacks the jurisdiction to address Claimant's dispute with her SER assistance for non-heat electricity. See BAM 600 (October 2014 and January 2015), pp. 4-6.

Second, Claimant testified during the hearing that her FAP and SER application was submitted online on December 27, 2014. However, Claimant's Program Request – Summary indicated that her application was dated December 29, 2014. See Exhibit 1, p. 4. Policy states that electronically filed applications include all applications filed online in MI Bridges, faxed, or emailed. BAM 110 (July 2014), p. 5. If the application is filed electronically after close of business (such as weekends, holidays, or after 5 p.m. EST on business days), the date of application is the following business day. BAM 110, p. 5 and ERM 103 (October 2013), p. 2. Claimant's application was submitted on a Saturday (weekend – December 27, 2014). Because Claimant's application was filed on a weekend, her application date is the following business day, which in this case was Monday, December 29, 2014. See BAM 110, p. 5; ERM 103, p. 2; and Exhibit 1, p. 4.

FAP application

For FAP benefits, an interview is required before denying assistance even if it is clear from the application or other sources that the group is ineligible. BAM 115 (July 2014), p. 17. The Department does not deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application date even if she has returned all verifications. BAM 115, p. 17.

In this case, on December 29, 2014, Claimant applied online for FAP benefits. See Exhibit 1, p. 4. On December 30, 2014, the Department sent Claimant an Application Notice notifying her that her FAP application was denied because she failed to meet the interview requirements. See Exhibit 1, p. 3. The Department testified, though, that it reinstated Claimant's FAP benefits to the date of application because she eventually completed the interview requirements. However, the Department failed to present any evidence that Claimant's FAP benefits had been approved and/or reinstated (i.e., Notice of Case Action or Eligibility Summary).

Based on the foregoing information and evidence, the Department improperly denied Claimant's FAP application effective December 29, 2014, ongoing, in accordance with Department policy.

First, policy indicates that the Department does not deny the application if the client has not participated in a scheduled initial interview until the 30th day after the application date even if she has returned all verifications. BAM 115, p. 17. Claimant applied on December 29, 2014 and the Department failed to deny the application interview until the 30th day after the application date. See BAM 115, p. 17. As such, the Department improperly denied Claimant's FAP application in accordance with Department policy.

Second, the Department acknowledged that Claimant's FAP benefits were reinstated to the date of application. However, the Department failed to present any evidence that it had reinstated Claimant's FAP benefits. As such, the Department will reregister and reprocess Claimant's FAP application dated December 29, 2014, for the above stated reasons.

SER application for property taxes

SER helps to prevent loss of a home if no other resources are available and the home will be available to provide safe shelter for the SER group in the foreseeable future. ERM 304 (October 2013), p. 1. Covered services under home ownership include property taxes and fees. See ERM 304, p. 1.

On December 29, 2014, Claimant applied online for SER assistance for property taxes and non-heat electricity. See Exhibit 1, p. 4. On December 30, 2014, the Department sent Claimant an Application Notice notifying her that her SER application was denied because she did not have a shutoff notice. See Exhibit 1, p. 3. The Application Notice failed to address whether Claimant's SER assistance request for property taxes was approved or denied. See Exhibit 1, p. 3.

During the hearing, the Department argued that Claimant's SER request for property taxes was denied because her home was not in foreclosure or in a sheriff sale status. See Exhibit 1, p. 1. The Department indicated that Claimant had delinquent taxes, which Claimant did not dispute. In response, Claimant testified that her home was forfeited to the Wayne County Treasurer and that she owed \$1,974 in property taxes as of November 2014 for the tax year of 2013. The Department testified that Claimant owed \$2,026.16 as of February 18, 2015.

The Department issues Home Ownership Services payments only to save a home threatened with loss due to mortgage foreclosure, land contract forfeiture, tax foreclosure, or court ordered eviction of a mobile home from land or a mobile home park. ERM 304, p. 4. In addition, all of the following conditions must be met (unless specified for a particular service), which includes that the total amount of tax arrearage for all years does not exceed \$2,000 (this only applies to home ownership for taxes). ERM 304, p. 4. The Department pays only the minimum amount required to resolve the tax emergency and does not pay until loss of the home is imminent. ERM 304, pp. 4-5. ERM 304 notes that the total tax arrearage amount is the total for every year combined, not just for the tax years which assistance is being requested. ERM 304, p. 5.

The amount to be authorized does not exceed the home ownership services maximum of \$2,000. ERM 304, p. 5. Verification requirements of property taxes and forfeiture are located in ERM 304. See ERM 304, pp. 6-7.

Claimant did not dispute that at the time of her application her property taxes were delinquent. However, Claimant also indicated that her home was forfeited to the Wayne County Treasurer. It is unclear if this would make Claimant eligible for SER assistance as verification is necessary. ERM 304, pp. 6-7. Nevertheless, the Department failed to process Claimant's SER application for property taxes. The Department testified that it denied Claimant's SER application for property taxes; however, the denial notice indicated that her application was denied because she did not have a shutoff notice. See Exhibit 1, p. 3. A shutoff notice is mostly likely applicable to SER assistance for

utility services (i.e., water, sewer, or cooking gas), but not property taxes. See ERM 302 (October 2013), pp. 1-4.

For electronic applications submitted through MIBridges, the application date is determined based on the time and date of submission. ERM 103, p. 2. Any application submitted after 5:00 pm or on a non-business day will have an application date of the next business day. ERM 103, p. 2. The application date is the first day of the 30-day SER eligibility period. ERM 103, p. 2. Applications must be registered within one day of receipt. ERM 103, p. 1. Online applications will be sent electronically to a registration inbox for proper assignment. ERM 103, p. 1. The Department informs all SER applicants in writing of the decision made on their application. ERM 103, p. 3. The Department mails or gives the DHS-1419, Decision Notice, to the applicant. ERM 103, p. 3.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it properly processed Claimant's SER application for property taxes dated December 29, 2014. The Department indicated the request for property taxes was denied; however, the Application Notice failed to provide any denial reason for her request for property taxes. See Exhibit 1, p. 3. The Department informs all SER applicants in writing of the decision made on their application. ERM 103, p. 3. Because the Department failed to inform Claimant in writing of the decision made on her SER assistance request for property taxes, the Department failed to process her application in accordance with Department policy. ERM 103, p. 3. Furthermore, Claimant indicated that her home was forfeited to the Wayne County Treasurer. As stated above, it is unclear if Claimant is eligible based on her testimony; however, it is important that the Department properly process her application to see if she is eligible for SER assistance for property taxes.


DECISION AND ORDER

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 (i) did not act in accordance with Department policy when it improperly denied Claimant's FAP application effective December 29, 2014; and (ii) failed to satisfy its burden of showing that properly processed Claimant's SER assistance for property taxes dated December 29, 2014.

Accordingly, the Department's FAP and SER decision is **REVERSED**.

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. Initiate re-registration and processing of Claimant's FAP application dated December 29, 2014;
2. Begin issuing supplements to Claimant for any FAP benefits she was eligible to receive but did not from December 29, 2014;
3. Initiate registration and processing of Claimant's SER application with property taxes dated December 29, 2014, in accordance with Department policy and as the circumstances existed at the time of application;
4. Begin issuing supplements to Claimant for any SER benefits she was eligible to receive but did not from date of application; and
5. Begin notifying Claimant of its FAP and SER decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/25/2015**

Date Mailed: **2/25/2015**

EJF / cl

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]