

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201272447
Issue No.: 5013; 1005
Case No.: [REDACTED]
Hearing Date: April 15, 2013
County: Wayne (35)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Manager, and [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly process the June 18, 2012, Settlement Order ordering the Department to reregister and reprocess Claimant's application for State Emergency Relief (SER) Temporary Housing Assistance in connection with the closure of her Family Independence Program (FIP) case?

Did the Department properly deny Claimant's June 18, 2012, FIP 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. In connection with the closure of her FIP case, Claimant filed an application for SER Temporary Housing Assistance, which provided rental assistance for individuals whose FIP case had closed due to exceeding the time limit for receipt of state- or federally-funded FIP.

2. The Department initially denied Claimant's application, and Claimant requested a hearing.
3. In connection with a June 18, 2012 Settlement Order resulting from the hearing, the Department agreed to reinstate and reprocess Claimant's SER application.
4. The Department concluded that Claimant provided all required information to process the application and was eligible for, and entitled to, three months of rental assistance but has not issued any payments in connection with Claimant's SER Temporary Housing Assistance application.
5. On June 18, 2012, Claimant filed a FIP application.
6. The Department denied Claimant's FIP application because Claimant failed to attend the work participation program appointment.
7. On August 17, 2012, Claimant requested a hearing concerning (i) the Department's failure to properly process her application for rental assistance in accordance with the terms of the Settlement Order and (i) the Department's denial of her FIP application.

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 State Emergency Relief Manual (ERM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The State Emergency Relief (SER) program is established by 2004 PA 344. The SER program is administered pursuant to MCL 400.10, *et seq.*, and by Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, Claimant's hearing file contained two requests for hearing, one concerning her SER Temporary Housing Assistance application which was addressed in an administrative hearing held on June 18, 2013, and the other concerning the denial of her June 18, 2012 FIP application. Both have a stamped date of August 17, 2012. Both issues are considered herein.

SER Temporary Housing Assistance Program Application

The SER Temporary Housing Assistance Program was created to provide housing assistance for up to three months for eligible households who reached their federal or state time limit maximums for receipt of FIP benefits. The program waived the housing and affordability and proof of emergency requirements generally applicable to applications for SER assistance. This program was not adopted into Department policy.

Claimant requested a hearing after the Department denied her application for assistance under the SER Temporary Housing Assistance Program. At a hearing held on June 18, 2012, Claimant and the Department entered into a Settlement Order where the Department agreed to reregister and reprocess Claimant's SER Temporary Housing Assistance application. On August 17, 2012, Claimant filed another request for hearing contending that the Department had failed to comply with the terms of the Settlement Order. The current hearing addresses the Department's actions with respect to the June 18, 2012 Settlement Order.

At the hearing, the Department testified that Claimant was entitled to three months of rental assistance under the SER Temporary Housing Assistance Program. However, the Department had not been able to get its system to process Claimant's claim and issue payment. The Department credibly testified that it had requested assistance from Lansing, but the issue remained unresolved. Claimant credibly testified that she continued to lease her home from the same landlord that the Department had concluded was an eligible provider. Under these circumstances, the Department did not act in accordance with Department policy when it failed to process and issue SER temporary housing assistance payments in accordance with Department policy.

FIP Application

Claimant filed a FIP application on June 18, 2012. Although Claimant contended that the Department had agreed to treat her application as a timely filed TC-60 application, which, pursuant to the Department's legal settlement suspending the federal 60 month limit for FIP benefits, allowed clients who applied for FIP benefits by June 11, 2012, to receive benefits from March 2012, ongoing, there was no evidence supporting Claimant's position. Therefore, Claimant's application was not a TC-60 application entitling Claimant to benefits prior to the June 18, 2012, application date, if eligible.

At the hearing, the Department testified that Claimant's application was denied on August 13, 2012, because Claimant failed to attend a work participation program orientation she was required to attend on August 6, 2012. At the hearing, Claimant did not recall whether she attended the orientation. While there was documentation in the file with handwritten notes by Claimant that she had requested that orientation be rescheduled, it is unclear when and if any request was made to the Department prior to the orientation date. The Department testified that its files indicated that no request to reschedule was made at any time after November 22, 2011. Furthermore, Claimant explained that she believed that she was not required to participate in any work participation program as a condition of approval of the June 18, 2012 FIP application. However, as a condition of FIP eligibility, work eligible individuals are required to

participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (December 1, 2011), p 1; BEM 233A (May 1, 2012), p 1. Under the circumstances in this case, the Department acted in accordance with Department policy when it denied Claimant's June 18, 2012, FIP application.

DECISION AND ORDER

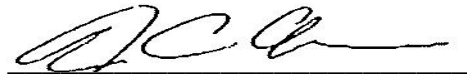
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

- did act properly when it denied Claimant's June 18, 2012 FIP application.
- did not act properly when it failed to issue SER Temporary Housing Assistance benefits on Claimant's behalf.

Accordingly, for the reasons stated on the record and above, the Department's decision is AFFIRMED IN PART with respect to denial of the FIP application, AND REVERSED IN PART with respect to failure to process and issue benefits under Claimant's SER Temporary Housing Assistance Program application.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Issue supplements in accordance with Department policy for SER Temporary Housing Assistance benefits the Department acknowledges Claimant is eligible and entitled to receive.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 4/24/2013

Date Mailed: 4/24/2013

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

ACE/hw

cc:

