

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

IN THE MATTER OF:



Reg. No.: 2012-72879
Issue No.: 1000;2000;3000;5000
Case No.: [REDACTED]
Hearing Date: April 15, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was [REDACTED], Eligibility Specialist.

ISSUE

Did the Department act in accordance with Department policy when it processed Claimant's benefits for: Medical Assistance (MA), Family Independence Program (FIP), Food Assistance Program (FAP) and State Emergency Services (SER)?

FINDINGS OF FACT

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

1. On July 13, 2012, Claimant submitted an application for SER.
2. On July 18, 2012, the Department sent Claimant an Application Notice denying her July 13, 2012 application for SER. (Exhibit 2)
3. On August 20, 2012 Claimant submitted a second application for SER.
4. The Department denied Claimant's August 20, 2012 application for SER.

5. There was no negative action taken by the Department with respect to Claimant's MA benefits during the 90 days preceding the filing of her hearing request.
6. There was no negative action taken by the Department with respect to Claimant's FIP benefits during the 90 days preceding the filing of her hearing request.
7. Claimant was an ongoing recipient of FAP benefits.
8. Claimant was not in agreement with the calculation of her FAP benefits.
9. On August 21, 2012, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

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

MA/FIP

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

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.

Additionally, Claimant filed a request for hearing on August 21, 2012 to dispute actions taken by the Department. At the hearing, Claimant stated that she had requested a hearing with regard to her MA case based on an action taken by the Department prior to 90 days of filing her request for hearing. Claimant did not provide a specific date as to when this action was taken.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual (BAM) 600 (August, 2012), p. 4, provides in relevant part as follows:

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

There was no negative action taken by the Department with respect to Claimant's MA benefits during the 90 days preceding the filing of her hearing request; therefore, her hearing request with regards to her MA was not timely filed within ninety days of the negative action and is, therefore, DISMISSED for lack of jurisdiction. BAM 600, p 4.

Claimant also testified that her FIP case closed in either December 2012 or January 2013 and that she disputed this action by the Department.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903 provides in relevant part:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because a claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department action resulting in suspension, reduction, discontinuance, or termination of assistance. [R 400.903(1).]

The closure of Claimant's FIP case did not occur until December 2012 or January 2013, which was months after she requested a hearing. There was no negative action taken by the Department at the time Claimant requested a hearing, therefore, Claimant's hearing request with regards to her FIP is, therefore, DISMISSED.

FAP/SER

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

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.

The law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24.278(2).

In the present case, Claimant requested a hearing to dispute the Department's calculation of her FAP benefits and the denial of her SER applications from July 13, 2012 and August 20, 2012. Soon after commencement of the hearing, the parties testified that they had reached a settlement concerning the disputed action. Consequently, with respect to Claimant's FAP case, the Department agreed to do the following: (i) begin recalculating Claimant's FAP budget from May 2012 ongoing in accordance with Department policy; (ii) begin issuing supplements to Claimant for any FAP benefits that she was entitled to receive but did not from May 2012, ongoing; and (iii) notify Claimant of its decision in writing in accordance with Department policy. The Department has further agreed to do the following: (i) reregister Claimant's July 13, 2012 and August 20, 2012 applications for SER; (ii) begin reprocessing both applications in accordance with Department policy; (iii) issue new SER Decision Notices for each application; and (iv) notify Claimant of its decision in writing in accordance with Department policy.

As a result of this settlement, Claimant no longer wishes to proceed with the hearing. As such, it is unnecessary for this Administrative Law Judge to render a decision regarding the facts and issues in this case.

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 Claimant's hearing request with regards to MA and FIP is DISMISSED for lack of jurisdiction.

The Administrative Law Judge further concludes that the Department and Claimant have come to a settlement regarding Claimant's request for a hearing for FAP and SER.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING:

1. Begin recalculating Claimant's FAP budget from May 2012 ongoing in accordance with Department policy;
2. Begin issuing supplements to Claimant for any FAP benefits that she was entitled to receive but did not from May 2012, ongoing;
3. Notify Claimant of its decision in writing in accordance with Department policy;
4. Reregister Claimant's July 13, 2012 and August 20, 2012 applications for SER;
5. Begin reprocessing both applications in accordance with Department policy; and

6. Issue new SER Decision Notices for each application.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 23, 2013

Date Mailed: April 23, 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.

ZB/cl

cc:

