

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg.No. 2013 46799
Issue No. 1038, 5016, 3029
Case No. ██████████
Hearing Date: June 10, 2013
Wayne County DHS (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on June 10, 2013. The Claimant appeared and testified. ██████████, FIS Jet Worker, appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's application for State Emergency Relief for utility assistance.

Whether the Department properly reduced the Claimant's FAP benefits.

Whether the Department correctly sanctioned and closed the Claimant's cash assistance (FIP) for noncompliance with work-related activities without good cause.

FINDINGS OF FACT

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

1. The Claimant was an ongoing recipient of FIP benefits.
2. The Claimant also applied for SER utility assistance for electric service on May 14, 2013 and was denied on May 16, 2013 due to failure to pay her contribution share. Exhibit 1
3. At the hearing the Claimant admitted that she did not pay any contribution amount which totaled \$1337.52. Exhibit 2

4. The Department reduced the Claimant's FAP benefits on March 1, 2013 based on additional income not previously included in the FAP budget. The income not previously included in the FAP budget was Claimant's son's SSI in the amount of \$710, and a State of Michigan quarterly supplement of \$14 for a total of \$724, and Claimant's FIP grant of \$403 was added as ongoing income due to lifetime closure imposed due to a third noncompliance with Work First responsibilities. Exhibit 5
5. A New Hire Client Notice dated January 16, 2013 was sent to the Claimant at the incorrect address which was [REDACTED]. The Claimant did not receive the Notice.
6. The Notice of Non Compliance with Work First requirements dated November 9, 2012 was sent to the Claimant at [REDACTED] which was the incorrect address.
7. The Notice of Case Action dated February 13, 2013 was also sent to the [REDACTED] address.
8. The Claimant called her then caseworker in November 2012 and provided her the new address at [REDACTED]. The Claimant provided the Department with her new address shortly after moving in October 2012.
9. The Department was unable to verify the date it received and/or changed the Claimant's address in the Bridges system.
10. The Department sent the Claimant a Notice of Non Compliance on November 16, 2012 indicating that the Claimant did not meet her participation requirements on April 6, 2012 as she failed to Complete a FAST, failure to complete a FSSP and no initial contact with Work First. Exhibit 7
11. The Notice of Non Compliance scheduled a triage for November 26, 2012.
12. The Claimant did not attend the triage as she did not receive the Notice of Non Compliance as the Department sent the Notice to the wrong address.
13. The Department did not present evidence of when the Claimant was assigned to Work First and whether she received a notice to complete her FAST.
14. The Department testified at the hearing that it closed the Claimant's FIP case effective December 1, 2012 and imposed a lifetime sanction closing the Claimant's FIP case due to the third noncompliance with work-related activities without good cause.

15. The Notice of Case Action dated November 9, 2012, admitted as Exhibit 9 did not confirm this fact and the entire notice was not provided.
16. The Department closed the Claimant's FIP case December 1, 2012 due to excess income as the Claimant's son who receives SSI was not being included in the FIP group. This action was taken pursuant to the Notice of Case Action dated November 9, 2012. Exhibit 9
17. The Claimant requested a hearing on May 14, 2013 protesting the closure of her FIP cash assistance case and reduction of her food benefits.

CONCLUSIONS OF LAW

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, 1999 AC, Rule 400.7001 through Rule 400.7049. Department policies are found in the 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 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 1999 AC, Rule 400.3001 through Rule 400.3015.

In this case the evidence presented did establish that the Department correctly denied the Claimant's SER application for utility assistance due to Claimant's failure to make a payment during the period prior to the shutoff. The Claimant admitted that she did not pay her contribution share at the hearing. Based upon the evidence presented it is determined that the Department was correct in denying the Claimant's application for SER. This determination is based on the fact that the Claimant admitted to not contributing or paying her share of the electric bill. After the hearing it was noted that the Department's Exhibit 3, the DTE account statement, did not contain the Claimant's name and contained the name [REDACTED], although the address shown on the Exhibit as [REDACTED] was the correct address for the Claimant. At the

hearing, the Claimant did not dispute the amount of the shutoff notice and if the account was not in Claimant's name the Claimant still would not be entitled to SER. ERM 302

As part of the hearing request the Claimant also requested a hearing regarding the reduction of her food assistance benefits. The Department reduced the Claimant's FAP benefits effective May 1, 2013 due to the fact that it was required to include the SSI received by the Claimant's child in the amount of \$710 which amount was confirmed by the Claimant. In addition the Department also correctly included a \$14 state supplement. The Department also included the Claimant's prior FIP benefit of \$403 as unearned income due to the fact that the Claimant's FIP case had closed due to a lifetime disqualification imposed by the Department for failure to attend Work First without good cause and complete a FAST. BEM 233 B pp. 3.

The Department did not provide any evidence, other than its testimony, relative to the closure due to noncompliance and the imposition of a lifetime sanction. The partial Notice of Case action that was provided after the hearing indicated that the FIP case closed December 1, 2013 due to excess income as the Claimant's son's income was not included when calculating FIP benefits as he was not listed as a group member. Thus it cannot be determined based upon the evidence provided whether the Department correctly included the \$403 FIP amount when calculating the Claimant's FAP benefits.

The Claimant after filing her hearing request learned for the first time when she received the hearing packet that the Department had permanently closed her FIP benefits for non-compliance with Work First requirements and failure to complete a FAST. The Claimant as explained below did not receive the Notice of Non Compliance scheduling a triage and the reasons for non-compliance as it was sent to the wrong address. During the hearing, the Department was given an opportunity to provide the notice of appointment to attend Work First and any notices to the Claimant requesting that the FAST be completed. The Department did not provide the notice of appointment to attend Work First, nor could it provide any documentation regarding its request that the Claimant complete a FAST. In addition, the Claimant credibly testified that she did not receive the Notice of Non Compliance scheduling a triage as it was sent to the incorrect address. Based upon these facts the Department did not present evidence to address the concerns that Claimant did not receive proper notice regarding the Notice of Non Compliance and the Notice of Case Action issued November 9, 2012 which closed the Claimant's FIP on December 1, 2012. The Notice of Case Action was also sent to the incorrect address. Even as late as January 2013 the Department continued to send Notices and correspondence to the incorrect address. (See New Hire Client Notice).

Lastly, the Notice of Non Compliance offered by the Department indicated that the Claimant's noncompliance was in part, due to the failure to complete a FAST plan. This failure is not a basis to sanction a FIP case although it may be grounds for closure. BEM 233 A provides: Exception: Do not apply the three month, six month or lifetime

penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time. Department of Human Services Bridges Eligibility Manual (BEM) 233A pp. 3, (1-2013).

Based upon these facts it is determined that the Claimant did not receive notice of the triage and the reasons for the triage. Therefore the Department's lifetime sanction and closure due to noncompliance, as it was not proved by any of the evidence cannot stand. Also it is determined that for the same reason the inclusion by the Department of the Claimant's FIP grant of \$403 as unearned income when computing the FAP benefits was not demonstrated as correct. Therefore, the Department did not meet its burden of proof to demonstrate that it correctly calculated the Claimant's FAP benefits and did not demonstrate that it properly closed and sanctioned the Claimant's FIP case due to non-compliance.

This decision and order makes no ruling with regard to the FIP case closure due to the Claimant's son's SSI income not being included in the group income or whether that closure is correct, because no evidence regarding that issue, other than the partial Notice of Case Action dated November 9, 2013 was presented and the Department consistently testified that the FIP case closure was due to noncompliance with Work First requirements and did not raise this issue during the hearing.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department correctly denied the Claimant's SER application for utility assistance. Accordingly, the Department's determination is AFFIRMED.

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Department incorrectly closed the Claimant's cash assistance FIP case, and improperly imposed a lifetime sanction closing the Claimant's case for noncompliance with work-related activities for non-participation with the Work First program and failure to complete a FAST. Lastly the FAP benefits which included \$403 of the FIP amount as unearned income is also not correct as the Department presented no evidence which supported its inclusion when calculating the budget. Accordingly, the Department's determination is REVERSED.

Accordingly it is ordered:

1. The Department shall initiate reinstatement of the Claimant's FIP case retroactive to the date of closure (12/1/12) and determine the Claimant's ongoing eligibility.

2. The Department shall supplement the Claimant for any FIP benefits, if any, she was otherwise entitled to receive in accordance with Department policy.
3. The Department shall remove from its records and the Claimant's case file the lifetime sanction it imposed on the Claimant for noncompliance with work participation requirements.
4. The Department shall recalculate the Claimant's FAP benefits and shall not include the \$403 FIP grant amount in the FAP unearned income when calculating the FAP benefits. The Department shall issue the Claimant a FAP supplement if any is appropriate in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: June 19, 2013

Date Mailed: June 19, 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.

2013 46799 /LMF

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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]