

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

IN THE MATTER OF:



Reg. No.: 201343561
Issue No.: 1038
Case No.:
Hearing Date: May 28, 2013
County: Wayne (17)

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 March 13, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of Department of Human Services (Department) included , Family Independence Specialist, and translator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case and reduce his Food Assistance Program (FAP) benefits based on Claimant's wife's failure to participate in employment-related activities without good cause?

Did the Department properly process Claimant's State Emergency Relief (SER) application for assistance with energy services?

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 was an ongoing recipient of FIP and FAP benefits.
2. On January 17, 2013, Claimant filed a SER application for assistance with energy services.

3. On January 24, 2013, the Department sent Claimant a SER Decision Notice informing him that it would pay \$100.29 towards his outstanding electric bill and \$179.08 towards his outstanding heat bill, with no payment required by Claimant.
4. On January 24, 2013, the Department authorized payment to [REDACTED] in the amounts indicated on the SER Decision Notice.
5. On March 21, 2013, the Department sent Claimant's wife a work program participation appointment notice requiring her attendance at the work participation program on April 2, 2013.
6. When Claimant's wife did not attend the April 2, 2013 appointment, on April 9, 2013, the Department sent Claimant (i) a Notice of Noncompliance notifying him of the noncompliance and scheduling a triage on April 15, 2013 and (ii) a Notice of Case Action, notifying him of the closure of the FIP case and reduction in FAP benefits due to noncompliance with employment-related activities.
7. Claimant attended the triage, but the Department concluded that his wife did not have good cause for failing to attend the April 2, 2013 hearing, and closed Claimant's FIP case for a three-month minimum and reduced the household's FAP benefits by excluding the wife from the FAP group for a one-month minimum.
8. On April 22, 2013, Claimant filed a hearing request, protesting the denial of the SER application and the closure of his FIP case.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), the Department of Human Services Bridges Eligibility Manual (BEM), the Department of Human Services Reference Tables Manual (RFT), and the 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 1999 AC, R 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, R 400.3001 through Rule 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, Rules 400.7001 through 400.7049.

Additionally, in his hearing request, Claimant requested a hearing concerning his FIP case closure and a SER denial. Because Claimant's wife's noncompliance with FIP-related employment activities also resulted in the reduction in FAP benefits, as reflected in the April 9, 2013, Notice of Case action, the reduction in FAP benefits was also considered at the hearing and in this Hearing Decision.

SER Decision

Although Claimant requested a hearing concerning the denial of his SER application for assistance with energy services, the Department testified that Claimant's January 17, 2013 SER application was approved, and presented evidence of the SER Decision Notice approving payment of \$100.29 for overdue electric bills and \$179.08 for overdue gas bills. Although Claimant alleged that his outstanding balance to [REDACTED] for these services was greater than that paid by the Department, the Department credibly testified that the amounts indicated in the SER Decision Notice were the past due amounts outstanding at the time of the SER application and presented evidence that payment of these amounts to [REDACTED] had been authorized. Based on the evidence presented, the Department acted in accordance with Department policy when it approved Claimant's SER application and made payment to [REDACTED] in the amounts indicated in the SER Decision Notice. See ERM (March 2013), p 1.

Although Claimant testified that he had received a new shut-off notice since the prior application, Claimant had not reapplied for SER assistance with respect to the new outstanding balance, and he was advised to do so.

Closure of FIP Case

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 (January 1, 2013), p 1; BEM 233A (January 1, 2013), p 1. Failing or refusing to comply with assigned activities or participate in employment and/or self-sufficiency-related activities without good cause constitutes a noncompliance with required activities justifying closure of a client's FIP case. BEM 233A, pp 1-2. In this case, the Department testified that it sent Claimant's wife a notice on March 21, 2013 requiring her to attend a work program orientation on April 2, 2013. Claimant did not attend the orientation.

The Department must schedule a triage meeting with a client before closing the client's FIP case to jointly discuss noncompliance and good cause. BEM 233A, p 7. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities and is based on factors beyond the control of the noncompliant person. BEM 233A, p 3. In this case, the Department sent Claimant a Notice of Noncompliance scheduling a triage on April 15, 2013. Claimant attended the triage. The Department concluded that Claimant had failed to identify any barriers prohibiting his wife's

attendance at the April 2, 2013 work program orientation and concluded that Claimant did not establish good cause for the noncompliance.

At the hearing, Claimant testified that he was not given any opportunity at the triage to explain why his wife did not attend the work participation program. Although the Department presented a triage document indicating that Claimant's wife had not presented any barriers that prevented her participation in the work program, the document was not signed by Claimant or his wife. No one from the triage was present at the hearing. Because the Department failed to establish that it considered Claimant's good cause explanation at the triage, testimony concerning this explanation was admitted at the hearing.

Claimant explained at the hearing that his wife did not participate in the work program because she did not receive the work participation program appointment notice. The Department did not provide a copy of the notice at the hearing, but testified that it was sent to Claimant's wife on March 21, 2013 at the [REDACTED] address the Department had on file as Claimant's address at the time. Claimant testified that he was no longer living at the [REDACTED] address when the notice was sent, and he had advised the Department of his change of address in early March 2013 by hand-delivering a copy of the lease to his worker. The Department worker at the hearing testified that the lease on file for Claimant's new home was dated April 20, 2013. Claimant's testimony that he had moved to the new address prior to the date of the lease was inconsistent with his testimony that he notified the Department of his change of address by delivering a copy of the lease to his worker. Furthermore, the evidence presented established that Claimant received the Notice of Noncompliance and Notice of Case Action sent to him on April 9, 2013, both sent to the [REDACTED] address. These facts established that the Department properly sent the March 21, 2013 work program participation notice to Claimant's address of record at the time. Under these facts, Claimant failed to rebut the presumption that he received a properly addressed notice sent to him in the ordinary course of business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976).

Because Claimant's wife did not attend the work participation program and failed to establish good cause for this noncompliance, the Department acted in accordance with Department policy when it closed Claimant's FIP case. Because this was the first occurrence of noncompliance, the Department acted in accordance with Department policy when it closed Claimant's FIP case for a three-month minimum period. See BEM BEM 233A, p 6.

Reduction in FAP Benefits

At the hearing, the Department testified that Claimant's FAP benefits were not affected by the FIP noncompliance. However, the April 9, 2013 Notice of Case Action advised Claimant that his FAP benefits were being reduced because of noncompliance with employment-related activities. If a client is active FIP and FAP at the time of a FIP noncompliance, the client is disqualified as a member of her FAP group unless there is a finding of FAP good cause. FAP good cause is established if the client satisfies a FIP deferral criteria or good cause reason, or if the FAP deferral reason of care of a child

under 6 or education applies. BEM 230B (January 2013), p 4. The evidence at the hearing established that Claimant and his wife had a one-year old child. Thus, the Department did not act in accordance with Department policy when it disqualified Claimant's wife from the FAP group and reduced the household's FAP benefits.

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 acted in accordance with Department policy when it closed Claimant's FIP case and processed Claimant's SER application but did not act in accordance with Department policy when it reduced Claimant's FAP benefits.

Accordingly, the reasons stated above and on the record, the Department's decision is **AFFIRMED IN PART** with respect to the closure of Claimant's FIP case for the three-month minimum and the processing of Claimant's SER application **AND REVERSED IN PART** with respect to the reduction of Claimant's FAP benefits.

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

1. Remove the FAP sanction imposed on or about May 1, 2013 from Claimant's wife's record;
2. Begin recalculating Claimant's FAP benefits from May 1, 2013, ongoing, to include Claimant's wife as a qualified FAP group member;
3. Issue supplements to Claimant for any FAP benefits his group was eligible to receive but did not from May 1, 2013, ongoing;
4. Notify Claimant in writing of its decision; and
5. Perform each of the preceding steps in accordance with Department policy.


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

Date Signed: 6/6/2013

Date Mailed: 6/6/2013

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:

