

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

IN THE MATTER OF:

██████████
██████████████████
██████████████████

Reg. No.: 2013-53035
Issue No.: 1000;2000;3000;5000
Case No.: ██████████
Hearing Date: August 5, 2013
County: Wayne (43)

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 August 5, 2013, from Detroit, Michigan. Claimant appeared and testified. Participating on behalf of the Department of Human Services (Department) was ██████████ Eligibility Specialist.

ISSUE

Did the Department act in accordance with Department policy when it processed Claimant's benefits for: Medical Assistance (MA), State Disability Assistance (SDA), Food Assistance Program (FAP) and State Emergency Relief (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. Claimant was an ongoing recipient of SDA, MA and FAP benefits.
2. There was no negative action taken by the Department with respect to Claimant's SER benefits during the 90 days preceding the filing of his hearing request.
3. On May 31, 2013, the Department sent Claimant a Notice of Case Action informing him that effective July 1, 2013 his SDA, MA and FAP cases would be closed based on his failure to verify information necessary to determine eligibility. (Exhibit 1).

4. On June 11, 2013, 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).

SER

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 Michigan Administrative Code R 400.903(1) provides as follows:

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

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 (July, 2013), 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.]

At the hearing, Claimant testified that he submitted an application for SER more than one year ago because he was being evicted from his home. Claimant was unable to provide any additional identifying information and the Department did not have any information regarding this application, as there was no application registered within 90 days preceding the filing of Claimant's hearing request. Claimant stated that he had not recently submitted an application for SER and that he did not have an open and active SER case. Claimant testified that he checked the SER box on the hearing request just in case it came up at the hearing but that he does not have an issue with SER. Therefore, there was no negative action taken by the Department with respect to SER during the 90 days preceding the filing of his hearing request. Claimant's hearing request was therefore, not timely filed. As such, Claimant's hearing request is

DISMISSED for lack of jurisdiction. BAM 600, p 4. Claimant was informed that should he apply for SER and be denied, that he was entitled to request a hearing regarding that future negative action.

SDA/MA/FAP

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, Rule 400.3151 through Rule 400.3180.

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 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. Rule 400.3001 through Rule 400.3015.

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 actions with respect to his SDA, MA and FAP cases which were closed due to a failure to verify requested information.

Soon after commencement of the hearing, the parties testified that they had reached a settlement concerning the disputed action. The Department confirmed that it had received the requested verifications from Claimant and consequently, with respect to Claimant's SDA, MA and FAP cases, the Department agreed to do the following: (i) reinstate Claimant's SDA, MA and FAP cases effective July 1, 2013; (ii) process the verification of application for SSI in accordance with Department policy; (iii) begin recalculating Claimant's SDA, MA, and FAP budgets from July 1, 2013 ongoing in accordance with Department policy; (iv) begin issuing supplements to Claimant for any SDA, MA and FAP benefits that he was entitled to receive but did not from July 1, 2013, ongoing; and (iii) notify Claimant of its decisions 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 SER 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 with regards to SDA, MA and FAP.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING:

1. Initiate reinstatement of Claimant's SDA, MA and FAP cases effective July 1, 2013;
2. Begin processing the verification of application for SSI that was received in accordance with Department policy;
3. Begin recalculating Claimant's SDA, FAP and MA budgets from July 1, 2013 ongoing in accordance with Department policy;
4. Begin issuing supplements to Claimant for any SDA, MA and FAP benefits that he was entitled to receive but did not from July 1, 2013, ongoing; and
5. Notify Claimant of its decisions in writing in accordance with Department policy.



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

Date Signed: August 13, 2013

Date Mailed: August 13, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

ZB/cl

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