

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014-4106
Issue Nos.: 3005, 5025, 6021
Case No.: ██████████
Hearing Date: November 7, 2013
County: Wayne (82-57)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on November 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
██████████

ISSUES

1. Did the Department properly close Claimant's Food Assistance Program (FAP) case?
2. Did the Department properly process Claimant's State Emergency Relief (SER) applications for assistance with property taxes?
3. Did the Department properly determine Claimant's weekly hours of eligibility for Child Development and Care (CDC) benefits?

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 FAP and CDC benefits.
2. On June 13 and July 3, 2013, Claimant applied for SER assistance with his property taxes.

3. On August 13, 2013, the Department sent Claimant a redetermination form to determine his ongoing eligibility for FAP.
4. When it did not receive a completed redetermination from Claimant, the Department sent Claimant a Notice of Missed Interview on September 3, 2013, notifying him that his FAP benefits would close at the end of the month if he did not complete the redetermination process.
5. On September 30, 2013, Claimant filed a request for hearing concerning his CDC and FAP cases and his SER applications.

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 Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, Claimant requested a hearing alleging that the Department (1) improperly closed his FAP case, (2) improperly provided CDC coverage for less than 40 hours weekly, and (3) failed to process his June 13, 2013, and July 3, 2013, SER applications.

FAP Case

The Department established that Claimant's FAP certification period expired on September 30, 2013. Before the certification period expired, it sent Claimant an August 13, 2013, redetermination, and, when it did not receive a completed redetermination from Claimant, a September 3, 2013, Notice of Missed Interview, advising him that his

FAP benefits would close at the end of the month if he did not complete the redetermination process, including an interview. Claimant denied receiving the redetermination form but testified that he did receive the Notice of Missed Interview. Claimant testified that he went to his local office on September 27, 2013, completed a redetermination form, and was advised by a Department worker that his FAP benefits were reinstated.

During the hearing, the Department produced a FAP benefits summary inquiry showing that Claimant had received ongoing, uninterrupted FAP benefits. Although there was some discussion on the record regarding whether Claimant's benefits had been issued due to a timely filed hearing request, FAP benefits are not reinstated when they are closed due to the lapse of the certification period. See BAM 600 (July 2013), p. 17. Therefore, the Department did not reinstate benefits because Claimant filed a timely hearing request. Rather, the summary establishes that Claimant, consistent with his testimony, completed his FAP redetermination prior to the expiration of the FAP certification period and his FAP case never closed. Therefore, the Department acted in accordance with Department policy when it continued processing Claimant's redetermination, determined Claimant's ongoing FAP eligibility, and issued FAP benefits to Claimant. See BAM 210 (July 2013), pp. 14-15.

Although Claimant expressed concerns regarding the amount of benefits received, his hearing request concerned the closure of his FAP case, and the FAP matter at the hearing was limited to this issue. If Claimant has concerns regarding the calculation of his FAP benefits, he is advised to request a hearing in accordance with Department policy.

CDC Benefits

In his September 27, 2013, hearing request, Claimant raised a concern that his CDC coverage was less than 40 hours weekly. During the hearing, the Department produced a document that showed the following:

- for the billing period between September 6, 2013, and September 21, 2013, Claimant was authorized for 48 hours of CDC benefits
- for the billing period between September 22, 2013, and October 5, 2013, Claimant was authorized for 32 hours of CDC benefits; and
- for the billing period between October 6, 2013, and October 19, 2013, Claimant was authorized for 32 hours of CDC benefits

The Department must determine the valid need hours for each parent at application, redetermination, and when a change in work or activity hours is reported. BEM 710 (January 2012), p. 1. The Department must calculate the actual need hours considering the time spent in an approved activity under BEM 703, meal periods during the work day, and study and required lab time. BEM 710, p. 1. The maximum number of hours that can be authorized per child is 80 hours in a biweekly period. BEM 706 (July 2013), p. 3. Each need determination, which must include the calculations used to arrive at the

need determination and the source of the information used in the need determination, must be documented in the case record. BEM 710, p. 1.

In this case, the Department explained that Claimant had presented a need for CDC benefits due to his participation in services in connection with his unemployment benefits, but because his case manager at [REDACTED] failed to verify his job search hours, the Department reduced his CDC hours. However, because Claimant continued to receive CDC benefits, it appears that some verification was provided. The Department did not provide any documentation to substantiate its need determination, and its testimony failed to establish what information it relied on to calculate Claimant's CDC need hours. Claimant responded that he had complied with all of the requirements necessary to continue to receive his unemployment benefits, thereby establishing that his need for CDC benefits for 40 hours weekly. Based on the evidence at the hearing, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy with respect to the number of hours it determined Claimant was eligible to receive.

SER Applications

Claimant testified that he applied twice, on June 13, 2013, and on July 3, 2013, for SER assistance. The Department presented documentation from the Office of the Treasurer of Wayne County date-stamped as received by the Department on June 13, 2013, and July 3, 2013. Thus, Claimant established that he filed two SER applications for assistance with property taxes.

SER applications must be processed within the ten-day standard of promptness and a decision notice must be sent to applicants to inform them of the decision on their applications. BEM 103 (March 2013), pp. 4, 6. The Department alleged that SER Decision Notices were sent to Claimant denying both of his applications on the basis that Claimant had entered into a payment plan. However, the Department did not provide a copy of the notices, and Claimant denied ever receiving any notices. Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in processing Claimant's SER applications and issuing a Decision Notice.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it processed Claimant's FAP redetermination and continued his FAP issuances but failed to satisfy its burden of showing that it acted in accordance with Department policy in determining Claimant's CDC need hours and processing Claimant's SER applications.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to processing Claimant's redetermination and keeping his FAP case active and

REVERSED IN PART with respect to its calculation of Claimant's CDC need hours and processing Claimant's SER applications.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Claimant's CDC need hours for September 6, 2013, ongoing;
2. Issue supplements to Claimant's provider for any CDC benefits Claimant was eligible to receive but did not from September 6, 2013, ongoing;
3. Reregister Claimant's June 13, 2013, and July 3, 2013, SER applications;
4. Process the applications; and
5. Notify Claimant in writing of its decisions.



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

Date Signed: November 12, 2013

Date Mailed: November 13, 2013

NOTICE OF APPEAL: 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.

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).

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.

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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

ACE/pf

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