

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

IN THE MATTER OF:

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

Reg. No.: 2014-5169
Issue No.: 1002; 3000; 5003
Case No.: ██████████
Hearing Date: November 12, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's witness, ██████████ ██████████ Case Manager. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Eligibility Specialist.

ISSUES

Did the Department properly calculate Claimant's Food Assistance Program (FAP) allotment effective October 1, 2013, ongoing?

Did the Department properly process Claimant's Family Independence Program (FIP) application for July 2013?

Did the Department properly process Claimant's State Emergency Relief (SER) application dated June 10, 2013?

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 is an ongoing recipient of FAP benefits and was an ongoing recipient of FIP benefits.
2. On June 3, 2013, Claimant applied for SER assistance with non-heat electricity, heat, rent to relocate, and security deposit.

3. On June 10, 2013, the Department sent Claimant a SER Decision Notice, which approved Claimant's non-heat electricity and heat. See Exhibit 1.
4. On June 10, 2013, the SER Decision Notice denied Claimant's rent to relocate and security deposit. See Exhibit 1.
5. On June 10, 2013, Claimant reapplied for SER assistance. See Exhibit 1.
6. On September 18, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to the amount of \$339 effective October 1, 2013, ongoing. See Exhibit 1.
7. On October 7, 2013, Claimant filed a hearing request, disputing her FAP allotment and failure to for the Department to process her FIP/SER applications. See Exhibit 1.

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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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 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.

FAP benefits

On September 18, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to the amount of \$339 effective October 1, 2013, ongoing. See Exhibit 1. During the hearing, Claimant testified that she understood her decrease and is no longer disputing her FAP benefits. Thus, Claimant's FAP hearing request is hereby DISMISSED.

FIP application

Any person, regardless of age, or their authorized representative (AR) may apply for assistance. BAM 110 (July 2013), p. 4. The Department must register a signed application or filing form, with the minimum information, within one workday for all requested programs. BAM 110, p. 19.

The standard of promptness (SOP) begins the date the department receives an application/filing form, with minimum required information. BAM 115 (July 2013), p. 15. Upon immediate receipt of the FIP application, the specialist must run the FIP Eligibility Determination Group (EDG) in the system to timely generate an automated Partnership. Accountability. Training Hope. (PATH) referral, as well as the DHS-4785, PATH Appointment Notice, to the client. BAM 115, p. 15. While the specialist should run the FIP EDG immediately, this must be completed within five days of the application date. BAM 115, p. 15. The Department certifies FIP program approval or denial of the application within 45 days. BAM 115, p. 15.

If the group is ineligible or refuses to cooperate in the application process; the Department certifies the denial within the standard of promptness by sending a DHS-1605, Client Notice, or the DHS-1150, Application Eligibility Notice, with the denial reason(s). BAM 115, p. 23. If approved, the Department also sends the DHS-1605 detailing the approval at certification of program opening. BAM 115, p. 23.

At the hearing, Claimant testified that she applied for FIP benefits on or around July 15, 2013. Claimant testified that she submitted a paper application in person at her local DHS office and never received a response to the application.

The Department testified that Claimant last applied for FIP benefits on March 20, 2013. See Hearing Summary, Exhibit 1. On March 22, 2013, the Department testified that a Notice of Case Action was sent to the Claimant denying her FIP application because she had exceeded the 60-month federal lifetime limit on receipt of FIP assistance. See Hearing Summary, Exhibit 1. However, the Department could not determine during the hearing if it received any FIP application from the Claimant for July 2013 and if it sent a Notice of Case Action regarding the July 2013 application.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600 (July 2013), p. 33. Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, pp. 33-34. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 35.

Based on the foregoing information and evidence, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it failed to

process Claimant's FIP application effective July 15, 2013. BAM 600, pp. 33-35. Claimant credibly testified that she submitted an in-person application for FIP benefits in July 2013. The Department acknowledged a March 2013 application, however, failed to rebut Claimant's testimony that she submitted a July 2013 application. Moreover, the Department failed to provide any evidence or testimony if Claimant applied for FIP benefits in July 2013 and if whether it was approved or denied as required per policy. BAM 115, p. 23. Thus, the Department will register her FIP application for July 2013 and determine her eligibility.

SER application

Any person has the right to apply for SER. ERM 103 (March 2013), p. 1. Applications must be registered within one day of receipt. ERM 103, p. 2. The SER standard of promptness is 10 calendar days, beginning with the date the signed SER application is received in the local office. ERM 103, p. 6. The case record must include documentation for any delay in processing the application beyond the standard of promptness. ERM 103, p. 6. The Department does not use the standard of promptness as a basis for denial of SER applications. ERM 103, p. 6. The Department continues to pend an application if the SER group is cooperating within their ability to provide verifications. ERM 103, p. 6. The Department denies the application if the group does not cooperate. ERM 103, p. 6

The Department informs all SER applicants in writing of the decision made on their application. ERM 103, p. 4 The Department mails or gives the DHS-1419, Decision Notice, to the applicant ERM 103, p. 4 The notice must also be provided whenever a client with-draws their application. ERM 103, p. 4

In this case, on June 3, 2013, Claimant applied for SER assistance with non-heat electricity, heat, rent to relocate, and security deposit. On June 10, 2013, the Department sent Claimant a SER Decision Notice, which approved Claimant's non-heat electricity and heat. See Exhibit 1. On June 10, 2013, the SER Decision Notice denied Claimant's rent to relocate and security deposit. See Exhibit 1. Specifically, the rent to relocate and security was denied because Claimant verbally withdrew her SER service request. See Exhibit 1.

At the hearing, Claimant was not disputing her non-heat electricity and heat. Moreover, Claimant agreed that she withdrew her SER service request for rent to relocate and security deposit. Claimant, though, never received a SER Decision Notice in regards to her subsequent application.

On June 10, 2013, Claimant reapplied for SER assistance. See Exhibit 1. A review of the application indicated that Claimant applied for rent, moving expenses, security deposit, heat, and electricity, which appeared to indicate that it was with her rent. See Exhibit 1. The electricity portion of the application was difficult to determine if she was requesting service. Nevertheless, Claimant testified that after the withdrawal of the first application for rent to relocate, she reapplied again seeking rent to relocate assistance.

However, the Department could not determine during the hearing if it sent a SER Decision Notice in regards to the application dated June 10, 2013.

The local office and client or authorized hearing representative will each present their position to the ALJ, who will determine whether the actions taken by the local office are correct according to fact, law, policy and procedure. BAM 600, p. 33. Both the local office and the client or authorized hearing representative must have adequate opportunity to present the case, bring witnesses, establish all pertinent facts, argue the case, refute any evidence, cross-examine adverse witnesses, and cross-examine the author of a document offered in evidence. BAM 600, pp. 33-34. The ALJ determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. BAM 600, p. 35.

Based on the foregoing information and evidence, the Department did not satisfy its burden of showing that it acted in accordance with Department policy when it failed to process Claimant's SER application dated June 10, 2013. BAM 600, pp. 33-35. Claimant provided credible testimony and evidence that she applied for SER assistance on June 10, 2013. See Exhibit 1. The Department failed to provide any evidence or testimony if it sent a SER Decision Notice in regards to the application as required per policy. ERM 103, p. 4. Thus, the Department will register her SER application for June 2013 and determine her eligibility.

DECISION AND ORDER

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it (i) failed to process Claimant's FIP application effective July 15, 2013 and (ii) failed to process Claimant's SER application dated June 10, 2013.

Accordingly, the Department's FIP and SER decisions are REVERSED.

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. Register the July 15, 2013, FIP application;
2. Begin processing the application/calculating the FIP budget from the time of application, in accordance with Department policy;
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from the date of application;
4. Register the June 10, 2013, SER application;

5. Begin processing the application/calculating the SER budget from the time of application and as the circumstances existed at the time of application, in accordance with Department policy;
6. Issue supplements to Claimant for any SER benefits she was eligible to receive but did not from the date of application; and
7. Notify Claimant in writing of its FIP and SER decisions in accordance with Department policy.

It is ALSO ORDERED that Claimant's FAP hearing request is hereby DISMISSED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 18, 2013

Date Mailed: November 18, 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.

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

2014-5169/EJF

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

EJF/cl

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