

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

IN THE MATTER OF:

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

Reg. No.: 2014-8230
Issue No.: 1000; 2000; 3000; 5004
Case No.: ██████████
Hearing Date: November 27, 2013
County: Wayne (43)

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 27, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ Family Independence Manager.

ISSUES

Did the Department properly close Claimant's Medical Assistance (MA) benefits effective December 1, 2013, ongoing?

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

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

Did the Department properly close Claimant's Family Independence Program (FIP) benefits effective May 1, 2013, ongoing?

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 and MA benefits.

2. Claimant was an ongoing recipient of FIP benefits.
3. On March 15, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on March 25, 2013. Exhibit 1.
4. On March 29, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on April 4, 2013. Exhibit 1.
5. On March 29, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective May 1, 2013, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 1.
6. On June 5, 2013, Claimant re-applied for cash (FIP) benefits. See Exhibit 1.
7. On June 5, 2013, Claimant indicated that she would apply for SER assistance, but then crossed out and initialed on the SER request that she is no longer applying for such assistance. See Exhibit 1.
8. On June 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that her cash application was denied effective July 1, 2013, ongoing, due to her no longer being eligible for FIP benefits because for at least the third time she had failed to participate in employment-related activities without good cause. See Exhibit 1.
9. On October 12, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to the amount of \$497 effective November 1, 2013, ongoing. See Exhibit 1.
10. On October 21, 2013, Claimant filed a hearing request, protesting her cash (FIP), MA, FAP, and SER benefits. See Exhibit 1.
11. On October 31, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits would close effective December 1, 2013, ongoing. 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 Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

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.

MA benefits

On October 21, 2013, Claimant filed a hearing request protesting her MA benefits. See Exhibit 1. Subsequent to her hearing request, on October 31, 2013, the Department sent Claimant a Notice of Case Action notifying her that her MA benefits would close effective December 1, 2013, ongoing. See Exhibit 1. Claimant testified that she was disputing the MA closure effective December 1, 2013, ongoing.

Regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because [a] claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by a Department 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 Department of Human Services Bridges Administrative Manual (BAM) 600 (July 2013), p. 5, 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.]

In the present case, the Department sent Claimant a Notice of Case Action advising Claimant of its decision to close Claimant's MA benefits on October 31, 2013. See Exhibit 1. However, Claimant's hearing request is dated October 21, 2013, which is before the MA notice of closure was sent. See Exhibit 1. This hearing has no jurisdiction over the MA issue because the Notice of Case Action is subsequent to her hearing request. Claimant was notified that she can request another hearing disputing the MA closure. Nevertheless, Claimant's MA hearing request is DISMISSED for lack of jurisdiction. BAM 600, pp. 3-5.

FAP benefits

On October 21, 2013, Claimant filed a hearing request, protesting her FAP decrease. See Exhibit 1. On October 12, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FAP benefits decreased to the amount of \$497 effective November 1, 2013, ongoing. See Exhibit 1. Specifically, the written notice stated that effective November 1, 2013, ongoing, her FAP benefits decreased because extra benefits provided by the federal government's American Recovery and Reinvestment Act of 2009, sometimes called the stimulus, have ended. See Exhibit 1. Claimant testified that she is only requesting the FAP hearing request due to this decrease.

Regulations governing the hearing and appeal process for recipients of Food Assistance Program (FAP) benefits in Michigan who, as a group, are affected by a federal or state initiated change in the law affecting all recipients are found in 7 CFR 273.12(e) and Mich Admin Code, R 400.901 through R 400.951. Rule 400.903(3), in pertinent part, states:

A hearing shall not be granted when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant computation.

See also Bridges Administrative Manual (BAM) which articulates policies regarding the hearing process. The Michigan Administrative Hearing System will **not** grant a hearing regarding the issue of a mass update required by state or federal law **unless** the reason for the request is an issue of incorrect calculation of program benefits or patient-pay amount. BAM 600.

In the instant case, the evidence and testimony provided confirm that Claimant is disputing a change in her FAP allotment that resulted from a mass change in law and policy as defined above, relating to a federal adjustment to eligibility standards, allotments and deductions, and/or State adjustments to utility standards. 7 CFR 273.12(e)(1). As there is no right to contest the change in law or policy, the FAP Request for Hearing is DISMISSED.

SER benefits

On October 21, 2013, Claimant filed a hearing request, protesting her SER application. Claimant testified that she was protesting the Department's failure to process her SER application dated June 5, 2013. The Department testified that it did not process her SER application because she had crossed out and initialed on the SER request that she is no longer seeking such assistance. See Exhibit 1. Claimant testified that she was seeking assistance for relocation services. Claimant testified that the DHS caseworker at the front desk told her to cross out the SER assistance and initial it. Claimant was not sure why the DHS caseworker informed her to do that. The Department testified that when a Claimant crosses out the SER assistance request and initials it, the Claimant is no longer seeking such assistance and they will not process that request.

For SER cases, applications must be registered within one day of receipt. ERM 103 (March 2013), p. 2. Requests for SER become an application on the day the signed DHS-1514 is received in a local office. ERM 103, p. 2. The application date is the first day of the 30-day SER eligibility period. 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 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 withdraws their application. ERM 103, p. 4.

Based on the foregoing information and evidence, the Department properly did not process Claimant's SER application (dated June 5, 2013) in accordance with Department policy. The Department credibly testified that Claimant decided not to request SER services. The Department provided credible evidence by showing the original application, in which Claimant crossed out and initialed on the SER request that she is no longer seeking such assistance. See Exhibit 1. ERM 103 states the SER decision notice must also be provided whenever a client withdraws their application. ERM 103, p. 4. However, this is not applicable in this case because Claimant decided not to seek an SER request before her application was processed. Moreover, Claimant failed to provide credible testimony why she crossed out and initialed by the SER request. Claimant testified that the front desk DHS caseworker told her to do it, but could not provide any testimony why she did it. Thus, the Department properly did not process Claimant's SER request because she ultimately decided not to seek such assistance.

FIP benefits

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105 (March 2013), p. 7. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 7. These include, but are not limited to, changes in: address and shelter cost changes that result from the move. BAM 105, p. 7.

In this case, Claimant was an ongoing recipient of FIP benefits. On March 15, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on March 25, 2013. Exhibit 1. On March 29, 2013, the Department mailed Claimant a Notice of Noncompliance scheduling Claimant for a triage appointment on April 4, 2013. Exhibit 1. On March 29, 2013, the Department sent Claimant a Notice of Case Action closing Claimant's FIP case, effective May 1, 2013, ongoing, based on a failure to participate in employment-related activities without good cause. Exhibit 1.

At the hearing, Claimant testified that she did not receive the Notice of Case Action (dated March 29, 2013) because she was no longer at the address indicated on the notice. On or around December 12, 2012, Claimant testified that she notified the Department that she was going to be evicted from her home. Claimant testified that she provided documentation to the Department on or around that date. Claimant provided those documents as part of her exhibits. See Exhibit A. Moreover, on or around December 12, 2012, Claimant testified that she provided the Department her updated mailing address, which was her mother's address. It should be noted that it is still the current mailing address as of today's hearing. On or around February 11, 2013, Claimant testified that she was ultimately evicted from her home and she has been living in shelter homes and/or her mother's/friend's homes. The Department testified that it never received the change of address request from the Claimant.

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). Based on the above information, it is reasonable to conclude that Claimant did notify the Department that she was being evicted from the home and that she notified the Department of the updated mailing address.

However, on June 5, 2013, Claimant reapplied for cash (FIP) benefits. See Exhibit 1. On June 7, 2013, the Department sent Claimant a Notice of Case Action notifying her that her cash application was denied effective July 1, 2013, ongoing, due to her no longer being eligible for FIP benefits because for at least the third time she had failed to participate in employment-related activities without good cause. See Exhibit 1.

Regarding FIP benefits, case closure for a minimum of three months is for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A (January 2013), p. 1.

In this case, Claimant's FIP benefits had been closed a lifetime due to a third episode of noncompliance effective May 1, 2013, ongoing. See Exhibit 1; See also BEM 233A, p. 1. Claimant testified that she learned of the FIP case closure and reapplied for benefits on June 5, 2013. Claimant testified that this was her only subsequent cash application. Claimant testified that she never received the Notice of Case Action (dated June 7,

2013), which notified her that she was denied for cash benefits due to the lifetime closure.

A review of the Notice of Case Action (dated June 7, 2013), indicated that it was sent to Claimant's updated mailing address. See Exhibit 1. Claimant agreed that the mailing address was the appropriate address at the time it was sent. The Department testified that it never received any unreturned mail. Claimant testified that she learned of the lifetime closure when she requested the current hearing in October 2013.

Based on the foregoing information and evidence, the Department properly closed Claimant's FIP benefits effective May 1, 2013, ongoing and her FIP hearing request is dismissed for lack of jurisdiction. As previously stated, it is reasonable to conclude that Claimant did notify the Department that she was being evicted from the home and that she notified the Department of the updated mailing address. Moreover, it is also reasonable that Claimant never received the Notice of Case Action dated March 29, 2013, which originally notified her of the lifetime closure of FIP benefits. However, Claimant failed to rebut the presumption of proper mailing in regards to the Notice of Case Action (dated June 7, 2013), which notified her that she was denied for cash benefits due to the lifetime closure. The Notice of Case Action (dated June 7, 2013) was sent to her updated mailing address and the Department credibly testified that it did not receive any returned mail.

Based on this information, Claimant's FIP hearing request is **DISMISSED** for lack of jurisdiction. BAM 600, pp. 3-5. Even though it is presumable that Claimant did not receive the first notice of closure (dated March 29, 2013), the subsequent notice (dated June 7, 2013) clearly informed her that her FIP application was denied due to her having a lifetime closure. See Exhibit 1. Claimant should have requested a hearing at the time she received the denial notice (dated June 7, 2013) because this informed her of the noncompliance and lifetime FIP closure. If Claimant had requested a timely hearing request at that time, she would have had a proper hearing to dispute the noncompliance/lifetime closure.

As stated in the above MA analysis, the same policy applies to her FIP hearing request regarding lack of jurisdiction. In the present case, the Department sent Claimant the Notices of Case Action advising her of its decision to close and/or deny the FIP benefits on March 29, 2013 and June 7, 2013. However, Claimant did not file a request for hearing to contest the Department's action until October 21, 2013. See Exhibit 1. Claimant's cash hearing request was not timely filed within ninety days of the Notice of Case Actions and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p. 5.

DECISION AND ORDER

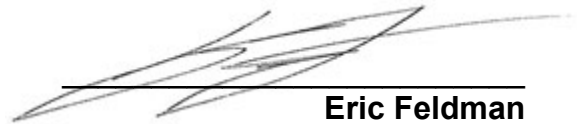
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that (i) Claimant's MA and FIP hearing request is dismissed for lack of jurisdiction; (ii) Claimant's FAP hearing request is dismissed because of no adjudicable issue; and (iii) the Department acted in

accordance with Department policy when it properly did not process Claimant's SER request on June 5, 2013.

Accordingly, the Department's SER decision is AFFIRMED.

IT IS ORDERED that Claimant's MA and FIP hearing request is **DISMISSED** for lack of jurisdiction. BAM 600, p. 5.

IT IS ALSO ORDERED that Claimant's FAP hearing request is **DISMISSED** due to no adjudicable issue



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

Date Signed: December 3, 2013

Date Mailed: December 3, 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

2014-8230/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]
[REDACTED]