

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

IN THE MATTER OF:



Reg. No.: 201311299
Issue No.: 5017, 1038
Case No.: [REDACTED]
Hearing Date: April 22, 2013
County: Wayne County (#55)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

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 conducted on Monday April 22, 2013 from Detroit, Michigan. Claimant appeared and testified. Participant on behalf of Department of Human Services (Department) was [REDACTED] (Family Independence Manager).

ISSUE

Whether the Department properly denied the Claimant's application for State Emergency Relief (SER)?

Whether the Department properly terminated the Claimant's cash assistance (FIP) 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. The Claimant was an ongoing FIP recipient.
2. The Department closed the Claimant's FIP benefits as of November 1, 2012 for alleged failure to participate in employment related activities.
3. On October 26, 2012, the Department received the Claimant application for SER relocation services.

4. The Claimant submitted a Notice to Quit dated November 2, 2012 as proof of homelessness. (Exhibit 2)
5. On October 26, 2012, the Department sent an Application Notice denying the SER application for failure to submit proof of emergency with the application. (Exhibit 1)
6. On November 7, 2012, the Department sent Application Notice denying the SER application due to the Claimant not providing verification of a court ordered eviction.
7. The Department received the Claimant's hearing request protesting the action taken by the Department.

CONCLUSIONS OF LAW

The Department of Human Services (DHS) policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 Mich Admin Code, Rules 400.7001 through Rule 400.7049. Department of Human Services', formerly known as the Family Independence Agency, policies are found in the Emergency Relief Manual ("ERM").

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (August 2012), p. 1. The issuance amount must resolve the group's shelter emergency. To be eligible for SER relocation services individuals must meet certain criteria which include showing homelessness. The definition of homeless includes:

- Persons living in an emergency shelter or motel, in HUD-funded transitional housing for homeless persons who originally came from the street, in a car on the street or in a place unfit for human habitation and there is no housing they can return to;
- Persons exiting jail, prison, a juvenile facility, a hospital, a medical setting, foster care, a substance abuse facility or a mental health treatment setting with no plan or resources for housing and no housing to return to; or
- Persons who meet the eligibility requirements for certain homeless assistance programs. ERM 303, p. 2.

Policy provides that as proof of homelessness an applicant must provide a court ordered eviction, summons, judgment or other court order from last residence. A

demand for possession for non-payment of rent or notice to quit is not acceptable as proof. ERM 303, p. 3.

In this case, the Claimant did not provide proof of homelessness as defined by department policy. There was no eviction notice, court order or judgment from her previous residence presented. Claimant did not assert that the homelessness was the result of a fire or other natural disaster; or domestic violence. As such the Department was unable to approve the Claimant for SER relocation services. The Department's action in regards to the SER application is upheld.

FIP

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 Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Department terminated the Claimant's FIP benefits as of November 1, 2012. The Department representative at hearing had no personal knowledge regarding the FIP closure and there was nothing in the hearing file pertaining to that issue, except for a prior Hearing Summary dated October 10, 2012 that indicated the Claimant's FIP case previously closed due to the Federal and or State time limits. Claimant testified that she was referred to attend the Work Participation Program orientation on October 1, 2012, which she did. On October 2, 2012, she reported to the program late and was escorted out of the building and told to contact her Department worker. She called her worker and left several messages that were not returned. When she finally spoke to the worker she explained what occurred and was told to file a hearing, which she did. Neither the worker that placed the Claimant's case in closure nor the Work Participation Program worker participated in the hearing process. After the hearing, the Department representative faxed to the Hearing Office several documents that included a Work Participation Appointment notice, Notice of Case Action dated October 11, 2012, Notice of Non-compliance, and work program case notes. These documents were not presented at the hearing and not reviewed by the Claimant. Policy requires that each party have adequate opportunity to refute any evidence and cross-examine the author of a document offered in evidence. BAM 600 (February 2013), p. 28.

The Department has the burden of establishing, by a preponderance of the evidence, that it acted in accordance with policy in any negative action taken against a client. Claimant's testimony that she did not willingly fail to participate in the work participation program was not refuted. The Department did not present sufficient credible testimony or documentary evidence at hearing to establish that it acted in accordance with policy when it closed the Claimant's FIP case effective November 1, 2012. Accordingly, the Department's FIP action is not upheld.

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 established that it acted in accordance with policy when it denied the Claimant's October 26, 2012 SER application. The Department did not establish it acted properly when it closed the Claimant's FIP benefits effective November 1, 2012.

Accordingly, the Department's SER determination is hereby, **AFFIRMED**. The Department's FIP determination is hereby, **REVERSED**.

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

1. The Department shall reinstate the Claimant's FIP benefits back to the effective date of closure (November 1, 2012); and issue a supplement for lost FIP benefits that Claimant was otherwise eligible and qualified to receive.
2. The Department shall remove any sanction for non-compliance with employment related activity imposed in connection with the FIP case closure effective November 1, 2012.
3. The Department shall refer the Claimant back to the Work Participation Program in accordance with policy.



Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/2/2013

Date Mailed: 5/2/2013

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

MH/hw

cc:

