

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2013-39136  
Issue No.: 1038, 2000, 3000, 5013  
Case No.: [REDACTED]  
Hearing Date: July 15, 2013  
County: Wayne DHS (15)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 July 15, 2013, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] appeared as Claimant's authorized hearing representative. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

**ISSUES**

The first issue is whether DHS properly failed to process Claimant's State Emergency Relief (SER) application.

The second issue is whether DHS took any adverse actions concerning Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) eligibility.

The third issue is whether DHS properly denied Claimant's Family Independence Program (FIP) application.

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On 9/16/12, Claimant applied for SER concerning lights and water.
2. On 1/8/13, Claimant applied for FIP benefits.
3. Claimant was an ongoing FAP and MA benefit recipient.

4. On 3/22/13, DHS denied Claimant's FIP benefit application due to Claimant's failure to attend PATH orientation and due to an alleged failure to return disability-related documents.
5. DHS took no adverse action concerning Claimant's FAP and MA benefit eligibility.
6. DHS failed to process Claimant's SER eligibility.
7. On 3/22/13, Claimant requested a hearing to dispute non-existent FAP and MA terminations and the failure by DHS to process SER and FIP applications.

### **CONCLUSIONS OF LAW**

Prior to a substantive analysis of Claimant's hearing request, it should be noted that the request noted that Claimant required special arrangements to participate in the administrative hearing. Claimant testified that she required no special arrangements.

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).

Claimant requested a hearing, in part, to dispute a DHS failure to process an SER application dated 9/16/12. Claimant testified that the application requested assistance with lights and water. The SER standard of promptness is 10 calendar days, beginning with the date the signed SER application is received in the local office. ERM (8/2012), p. 5.

DHS failed to address Claimant's dispute in their Hearing Summary. During the hearing, DHS checked their database and could not find any record of an SER decision. Presumably, Claimant's application was never processed. Accordingly, DHS' failure to process Claimant's application was improper.

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, R 400.3001 through R 400.3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

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. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a FAP and MA benefit termination. Claimant conceded that she received FAP and MA benefits since requesting a hearing. Claimant failed to present any documentary evidence that DHS threatened a FAP or MA benefit termination.

Once again, DHS failed to address Claimant's dispute in their Hearing Summary. DHS was given another opportunity during the hearing to clarify whether any adverse actions were taken on Claimant's FAP or MA benefit eligibility. DHS could not find any previously mailed correspondence that Claimant's FAP or MA eligibility was in jeopardy. It is found that Claimant failed to establish any threat to FAP or MA benefit eligibility.

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

Claimant also requested a hearing to dispute a FIP benefit denial. Ironically, the FIP was not clearly marked as disputed on the hearing request yet it was the only program addressed by the DHS Hearing Summary. Claimant testified that she intended to raise a FIP benefit dispute. Because DHS addressed Claimant's dispute in their Hearing Summary, it cannot be stated that DHS did not have notice of the dispute. It is found that Claimant's FIP application dispute may be addressed by administrative hearing.

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges. BEM 230A (1/2013), p. 9. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. This may include those who have applied for RSDI/SSI. *Id.*

Determination of a long-term disability is a three step process. BEM 230A, p. 10. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when requested. BEM 230A, p. 10. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 10. If the verification is not returned, a disability is not established. BEM 230A, p. 10. The client will be required to fully participate in PATH as a mandatory participant. BEM 230A, p. 10. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT (Medical Review Team) decision. BEM 230A, p. 10. Step three

involves the referral to MRT. See BEM 230A, pp. 10-11. Upon the receipt of the MRT decision, the Department reviews the determination and information provided by MRT. BEM 230A, p. 11. The Department establishes the accommodations the recipient needs to participate in PATH or to complete self sufficiency-related activities. BEM 230A, p. 11.

DHS alleged that Claimant's FIP application was properly denied after Claimant failed to return proof of disability supporting a deferral from PATH. DHS is to use the DHS-3503, Verification Checklist to request verification. BAM 130 (5/2012), p. 3. DHS must give clients at least ten days to submit verifications. *Id.* DHS must tell the client what verification is required, how to obtain it, and the due date. *Id.*, p. 2. For FAP benefits, DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification, or
- the time period given has elapsed and the client has not made a reasonable effort to provide it.

*Id.*, p. 5.

DHS failed to establish that disability-related documents were requested from Claimant, when the documents were requested and when the documents were due. The failure by DHS to establish any of the above requirements is an appropriate basis to reverse the FIP application denial.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS took no adverse actions concerning Claimant's FAP or MA benefit eligibility. Claimant's hearing request is PARTIALLY DISMISSED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's application for FIP and SER benefits. It is ordered that DHS:

1. re-register Claimant's SER application dated 9/16/12 requesting assistance for electricity;
2. initiate processing of Claimant's SER application subject to the finding that DHS failed to process the application;
3. re-register Claimant's FIP application dated 1/8/13; and
4. initiate reprocessing of Claimant's FIP application subject to the finding that DHS failed to establish that disability-related documents were requested from Claimant.

The actions taken by DHS are REVERSED.



Christian Gardocki  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: 7/30/2013

Date Mailed: 7/30/2013

**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 affect the substantial rights of the claimant,
  - 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

CG/hw

cc:

