

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

IN THE MATTER OF:

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

Reg. No.: 2013 57704
Issue No.: 5026, 1038,
Case No.: ██████████
Hearing Date: August 15, 2013
County: Wayne (57)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 August 15, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ Pathways to Potential Success Coach.

ISSUE

Did the Department properly deny the Claimant's application for FIP cash assistance due to failure to attend PATH orientation?

Did the Department properly deny the Claimant's SER application for rent assistance due to eviction?

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 applied for FIP benefits of April 30, 2013.
2. The Claimant was assigned to the PATH orientation on May 31, 2013. The Claimant stayed until 11:00 and had to leave to take her son to a doctor appointment and to get her utilities turned back on. The PATH program advised Claimant to return to the PATH program on June 7, 2013.

3. The Department issued a notice of case action on June 17, 2013 denying the Claimant's FIP application for failure to attend the orientation.
4. The Claimant provided the Department a Medical Needs Form on June 8, 2013, prior to the issuance of the Notice of Case Action.
5. The Claimant applied for SER for rent emergency due to eviction on June 10, 2013.
6. The Department denied the Claimant's SER application on June 26, 2013 due to the rent not being affordable. The Claimant had no income at the time of the SER application. Exhibit 8
7. The Claimant received FAP benefits ongoing and the Department incorrectly calculated the Claimant's FAP income for May and June 2013 as the earned income amount entered was incorrect. The Department agreed during the hearing that the FAP earned income amount was incorrect.
8. The Claimant filed a request for hearing on July 8, 2013 protesting the denial of her application for SER and FIP and the amount of Claimant's food assistance.

CONCLUSIONS OF LAW

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

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 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.

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).

FAP ISSUE

Additionally, during the hearing the Department acknowledged that it incorrectly calculated the Claimant's FAP benefits using the incorrect income and agreed to correct the FAP allotment based upon pay stubs provided and reviewed at the hearing for March and April, 2013.

At the hearing the Department indicated that the SER application was denied due to the fact that the Claimant had no income at the time of the application and thus the housing was not affordable as the Claimant was no longer working and had no income.

SER ISSUE

At the hearing the evidence showed that the Claimant had no income at the time of her application for SER on June 10, 2013 for DHS assistance to provide rent pursuant to an eviction. SER policy provides:

Authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. The applicable Department Policy provides:

Housing affordability is a condition of eligibility for State Emergency Relief (SER) and applies only to Relocation Services (ERM 303) and Home Ownership Services and Home Repairs (ERM 304). Housing affordability does not apply to other SER services.

Deny SER if the group does not have sufficient income to meet their total housing obligation. The total housing obligation cannot exceed 75 percent of the group's total net countable income. Even though the claimant had an application for FIP benefits pending she had not income that could be considered at the time she applied and thus it is determined that the Department properly denied the application. ERM 207 Housing Affordability, pp.1 (4/1/2011).

Based upon the foregoing, it is determined that the Department properly denied the SER application.

CLOSURE DUE TO FAILURE TO ATTEND PATH ORIENTATION

The Claimant was belatedly assigned to attend PATH Orientation with 3 days' notice on May 31, 2013 and did attend and left due to a doctor appointment for her disabled son

and a household emergency for utilities being turned off. Thereafter the Claimant provided the Department a letter from her doctor on June 8, 2013 and a completed medical needs form from her doctor dated June 10, 2013. The Department issued a notice of case action on June 17, 2013 and denied the Claimant's application for failure to attend the PATH Orientation. In this instance the Department improperly denied the Claimant's FIP application as it had a medical needs form in its possession prior to the closure. Additionally it appears that even though the FIP application was filed on April 28, 2013, the Department did not assign the Claimant to attend the PATH Orientation until May 31, 2013 and the Notice was issued May 23, 2013 which was received by Claimant such that the Claimant had only 3 days' notice. Under these circumstances, once the Claimant provided a letter from her doctor and the Medical Needs form, a deferral should have been processed and the application should not have been denied. Exhibit 2 and Exhibit 3. BEM 233 A. Therefore it is determined that the Department improperly denied the Claimant's FIP application.

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

did not act properly when it denied the Claimant's FIP application of April 28, 2013

did act properly when it denied the Claimant's SER application due to the fact that the shelter expense (rent) was not affordable.

did not act properly when it calculated the Claimant's FAP benefits for April 2013 and May 2013

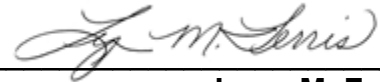
Accordingly, the Department's AMP FIP FAP MA SDA CDC decision is AFFIRMED REVERSED for the reasons stated on the record and in this Decision.

Accordingly, the Department's AMP FIP FAP MA SDA CDC SER decision is AFFIRMED REVERSED for the reasons stated on the record.

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

1. The Department conceded that it used the wrong income when computing the Claimant's earned income for FAP benefits for April and May 2013 and the Department agreed to recompute the FAP benefits for April and May 2013; therefore, the Department shall recompute the FAP benefits for April and May 2013 and issue a FAP supplement, if any, the Claimant is otherwise entitled to receive in accordance with Department policy.
2. The Department shall reinstate the Claimant's FIP application dated April 28, 2013 and shall process the application in accordance with this Decision and shall

issue a FIP supplement to the Claimant for FIP benefits she was otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 23, 2013

Date Mailed: August 23, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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

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

LMF/cl

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