

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-15075
Issue No.: 3001; 5000; 1000
Case No.: [REDACTED]
Hearing Date: February 5, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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, an in-person hearing was held on February 5, 2014, from Taylor, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility.

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 was an ongoing FAP benefit recipient.
2. Claimant was an employed individual.
3. On an unspecified date, Claimant committed an intentional program violation resulting in her disqualification from FAP eligibility through 10/2013.
4. On [REDACTED] DHS mailed Claimant a Notice of Case Action (Exhibits 1-3) informing Claimant of a termination of Family Independence Program (FIP) benefits based on a determination that Claimant was noncompliant with PATH participation.

5. On [REDACTED] Claimant requested a hearing to raise various disputes concerning the following: Family Independence Program (FIP) eligibility, FAP eligibility and that DHS failed to timely process a State Emergency Relief (SER) application.
6. Claimant testified that she had no dispute concerning ongoing FIP eligibility.

CONCLUSIONS OF LAW

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. Department policies are contained in the Department of Human Services Emergency Relief Manual (ERM).

Prior to a substantive analysis, it should be noted that Claimant's hearing request listed that she had an authorized hearing representative (AHR). The AHR did not appear for the hearing. During the hearing, Claimant waived her right to representation.

It should also be noted that Claimant answered affirmatively to a question asking if special arrangements were required for Claimant to participate in the administrative hearing. Claimant noted that she was mentally ill and she did not "need a shotty person to handle it". During the hearing, Claimant did not clarify what special accommodations were required for her mental illness or what she meant by a "shotty person to handle it".

Claimant requested a hearing, in part, to dispute an alleged DHS failure to timely process a SER application. Claimant testified that she applied for SER on [REDACTED] to prevent an energy service shut-off. Claimant stated that DHS waited until [REDACTED] to inform DHS of the approval and that her energy services were shut-off in the interim.

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 (3/2013), p. 6. The case record must include documentation for any delay in processing the application beyond the standard of promptness. *Id.*

It is possible that a termination of service that may have been avoided had DHS approved Claimant's more quickly. It is likely that Claimant was greatly inconvenienced by a termination of energy service; however, Claimant's inconvenience is not addressable through an administrative hearing. The remedy for a DHS violation of the standard of promptness is to order DHS to process the application. As DHS approved Claimant's SER application, albeit outside of the standard of promptness, no further remedy is available to Claimant.

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

Claimant also requested a hearing concerning FAP eligibility. Claimant raised several complaints concerning FAP eligibility. Her first complaint was that DHS improperly included FIP income in her FAP eligibility.

Bridges (the DHS database) applies policies associated with a FIP related noncompliance and budgets the last FIP grant amount into the FAP budget. BEM 233B (7/2013), p. 3. The FIP grant is removed from the FAP budget at the end of the FIP penalty period. *Id.*

On [REDACTED] DHS terminated Claimant's FIP eligibility due to Claimant's noncompliance with employment-related activities. Claimant received notice of the termination (see Exhibits 1-3). The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (7/2013), p. 5. On [REDACTED] Claimant timely requested a hearing to dispute the termination. On [REDACTED] an administrative hearing was held and Claimant did not wish to dispute the FIP termination (see Registration # 201339025). Claimant testified that she did not dispute the FIP termination only because she was employed and did not need the FIP benefits. Thus, the FIP benefit termination, and reason for termination, was accepted by Claimant as correct based on her failure to dispute the issue.

Claimant wanted to rehash the previously resolved FIP dispute because it affected her FAP eligibility. In determining whether Claimant could raise the issue in the administrative hearing dated [REDACTED] consideration was given to whether Claimant should have been aware of what she was conceding in the prior hearing. Claimant likely failed to appreciate that the withdrawal of her previous hearing request would result in a FAP benefit penalty by factoring FIP income she no longer received. DHS may have contributed to the misunderstanding by failing to note such a penalty on the Notice of Case Action. The previous administrative judge (same as the current one) may have contributed to Claimant's confusion by failing to explain the consequences of not disputing the FIP termination. Ultimately, it is Claimant's responsibility to dispute DHS decisions.

Claimant received notice of a FIP termination based on noncompliance. Claimant failed to follow-up with her dispute. It is found that Claimant failed to timely request a hearing to dispute a DHS finding of noncompliance. It is also found that Claimant is barred from disputing the finding because the issue was resolved by a previous administrative decision. Accordingly, Claimant may not dispute the inclusion of FIP benefits during her sanction period as part of the penalty for employment-related activity noncompliance.

Claimant contended that if the FIP noncompliance dispute from [REDACTED] was addressed, she would surely prevail. Only as a courtesy, Claimant's argument will be briefly addressed. Claimant alleged she was employed as of [REDACTED]. To support her claim that she was employed, Claimant cited her application (see Exhibits 4-5) dated [REDACTED] which listed employment income. Claimant also cited that a previous administrative hearing decision listed Claimant's employment pays from [REDACTED]. Claimant contended that she could not have been noncompliant if she was employed. Claimant's arguments were not compelling because it was not established that Claimant was employed at the time noncompliance was found by DHS. It was also not established if Claimant reported the employment to DHS or that her employment satisfied PATH requirements. Thus, even if Claimant met the procedural requirements to have the noncompliance issue addressed, Claimant did not verify that she would prevail on the issue.

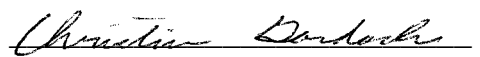
Claimant also contended that DHS failed to increase her FAP eligibility following the end of an IPV disqualification period. Claimant also contended that DHS failed to factor a stoppage in employment income after reporting to DHS that she stopped work at the end of [REDACTED]. DHS responded that Claimant's FAP eligibility for [REDACTED] initially failed to factor the end of an IPV period and/or the stoppage of employment income. DHS added that both problems were corrected as part of a FAP supplement for [REDACTED]. Claimant conceded that a supplement was issued factoring both changes.

Lastly, Claimant expressed concern that she was an excluded group member as of [REDACTED]. During the hearing, DHS presented Claimant with an Eligibility Summary which indicated that FAP determinations since [REDACTED] factored all of Claimant's household members. Thus, Claimant conceded that her FAP group was factored correctly by DHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant is not entitled to administrative relief from a previously approved SER application processed outside of the DHS standard of promptness. Claimant's hearing request is also dismissed concerning a FIP eligibility dispute. 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 properly determined Claimant's FAP eligibility from [REDACTED] including issues involving Claimant's group size, income and budgeting of FIP income. The actions taken by DHS are **AFFIRMED**.


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

Date Signed: 2/18/2014

Date Mailed: 2/18/2014

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

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

CG/hw

cc:

