

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-14324
Issue No(s): 5007; 3002; 1008; 6006
Case No.: [REDACTED]
Hearing Date: January 28, 2014
County: Kent

ADMINISTRATIVE LAW JUDGE: MICHAEL S. NEWELL

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 January 28, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] FIM.

ISSUE

Did the Department properly deny Claimant's SER Application?

Did the Department properly terminate Claimant's FAP benefits?

Did the Department properly cancel Claimant's FIP benefits?

Did the Department properly address Claimant's CDC 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 September 19, 2013, Claimant applied for SER.
2. On September 20, 2013, the Department issued a State Emergency Relief Decision Notice denying Claimant's request for rent to relocate (\$ [REDACTED] moving expenses (\$ [REDACTED] and Security Deposit (\$ [REDACTED]).
3. The Department was not prepared to address the SER denial at the hearing and did not present evidence concerning the reason for denial.
4. The Department alleged that on September 16, 2013, it sent Claimant a redetermination due October 4, 2013.

5. The Department did not provide a copy of the Redetermination as a hearing exhibit.
6. On October 31, 2013, Claimant's FAP benefits were cancelled for alleged failure to verify.
7. On October 9, 2013, the Department sent Claimant a Notice of Noncompliance for allegedly failing to comply with the JET/PATH program and which scheduled an appointment on October 16, 2013.
8. Claimant informed her worker that she could not attend the meeting due to work after receiving the notice, and the worker informed Claimant that she would take care of it.
9. On October 9, 2013, the Department sent Claimant a Notice of Case Action cancelling her FIP benefits effective November 1, 2013 for alleged noncompliance with the JET/PATH program and approving her CDC benefits at 100%/40 authorized hours. (Exhibit 5).
10. Claimant alleged that before this, the Department had approved her for only part-time CDC benefits.
11. The Department was not aware of any prior issues with CDC.
12. On November 18, 2013, the Department received Claimant's hearing request, which request a hearing regarding Claimant's FIP, SER, CDC, and FAP. Claimant also requested hearing concerning SER on November 12, 2013.
13. A hearing was scheduled for January 7, 2014.
14. On January 7, 2014, Claimant requested adjournment, and the hearing was adjourned to January 28, 2014.

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 MC L 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 Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 t o 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

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.

Additionally, The Department was not reasonably prepared for the hearing and did not provide documentation or Notices for all of the issues raised in Claimant's hearing request, and the Department employee who testified was unsure what had occurred, and the worker or workers who made the relevant decisions did not testify. Accordingly, it is difficult to meaningfully review the Department's actions which Claimant's challenged. Thus, the Department will need to investigate all negative Actions with respect to Claimant's FIP, SER, CDC and FAP within 90 days before the hearing request and take appropriate action, up to and including reinstating eligibility and reinstating benefits if necessary. Also, some of the dates in this decision regarding negative actions may be inaccurate because the Department did not provide many relevant notices, and the Department employee who testified did not know what happened or why with respect to several issues.

The Department did not meet its burden of proof with regard to the September 20, 2013 SER decision because it presented no evidence in this regard concerning why the application was denied. The Department will need to reinstate the application and redetermine eligibility.

The Department did not meet its burden of proof with respect to the October 9, 2013 FIP closure, effective November 1, 2013. No evidence was presented regarding Claimant's alleged non-compliance other than speculation from the Department concerning what Claimant might have done. The JET/PATH worker could not be reached when called for the hearing.

Concerning the October 31, 2013 FAP cancellation for alleged failure to verify, the Department did not provide the verification requests or redetermination allegedly sent to Claimant. Thus, the Department had not met its burden of proof.

Concerning claimant's CDC concerns, the Department presented minimal evidence about what occurred, and the witness for the Department did not know. The Department shall investigate any negative action concerning CDC occurring on or within

90 days before November 12, 2013 and issue a Notice of Case Action concerning any such negative action, including but not limited to awarding Claimant less than 100% CDC benefits

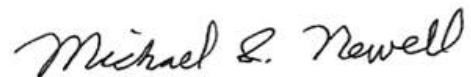
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's SER Application, terminated Claimant's FAP and FIP benefits, and properly processed Claimant's CDC application.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate the SER application that was denied on September 20, 2013 and redetermine eligibility.
2. The Department shall reinstate FIP benefits back to the November 1, 2013 closure date, redetermine eligibility, and provide Claimant with any necessary retroactive and/or supplemental benefits in accordance with policy.
3. The Department shall reinstate the FAP benefits that closed on or around October 31, 2013, redetermine eligibility, and provide Claimant with any necessary retroactive and/or supplemental benefits in accordance with policy.
4. The Department shall investigate whether any negative actions occurred with respect to Claimant's CDC benefits within 90 days before November 12, 2013, and if any such negative action occurred, the Department shall redetermine eligibility back to the effective date of any such actions.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 13, 2014

Date Mailed: February 13, 2014

NOTICE OF AP PEAL: 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

2014-14324/MSN

MSN/las

cc:

