

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

IN THE MATTER OF:



Reg. No.: 2014-19720
Issue No(s): 1001;3001
Case No.: [REDACTED]
Hearing Date: January 28, 2014
County: Ingham

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] AP Supervisor and [REDACTED], Path Coordinator and [REDACTED] Eligibility Specialist

ISSUE

Did the Department properly hold Claimant was noncompliant with Work First and exclude her from the FAP group and end her FIP?

Did the Department meet its burden of proving that it properly processed Claimant's SER 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 November 27, 2013, Claimant was sent a "Notice of Non-Compliance" regarding Work First.
2. The non-compliance concerns alleged failures to turn in certain paperwork regarding activities from November 4, 2013 through November 18, 2013.
3. It is undisputed that on November 20, 2013, Claimant told a worker with Work First that she did not know that she needed to turn in the missing paperwork. (Exhibit 5).

4. Although the Department alleged during the hearing that Claimant would have signed documents indicating that she knew of the work first requirement to turn in certain paperwork before November 20, 2013, the Department did not provide any such documentation.
5. In November 2013, Claimant applied for SER for certain utilities.
6. The Department did not provide a copy of the application.
7. On December 4, 2013, the Department issued a Notice of Case Action indicating that the Department would pay \$ [REDACTED] for Claimant's electric if Claimant would pay her copay of \$ [REDACTED] by December 25, 2013.
8. The application did not address all utilities requested by Claimant, and the Department did not know why the gas issue was not addressed.
9. The Department did not provide a copy of the SER Notice of Case Action before the hearing.
10. On December 20, 2013, Claimant filed her hearing request.
11. Claimant's hearing request expressly stated that Claimant was challenging the SER issue as well as other issues.

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 MCL 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 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 November 27, 2013 Notice of noncompliance is reversed because the Department did not meet its burden of proving that Claimant was non-compliant. The Department provided no evidence that anyone apprised Claimant of her work first requirements relative to turning in paper work concerning November 4, 2013 through November 18, 2013 before that period. Instead, the Department alleged that Claimant signed off on these obligations before November but did not provide a copy of such verifications, even though the Department knew, or should have known, that Claimant alleged on November 20, 2013 that she was never told these requirements. Indeed, the allegation was raised in notes submitted by the Department.

Regarding Claimant's November 2013 SER application, the Department has not sustained its burden of proof that it made the correct decision because it did not provide a copy of the application or the Notice of Case Action. Indeed, the parties disputed even the application date, although both sides agreed that Claimant applied in November. The Department took the position during the hearing that it did not know that SER was an issue for the hearing, despite this issue being clearly stated on Claimant's hearing request.

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 held Claimant noncompliant with work first requirement and thus cancelled her FIP and removed her from the FAP group and in processing Claimant's SER application..

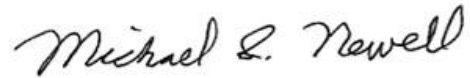
DECISION AND ORDER

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. Reverse the FIP closure and redetermine eligibility from the closure date.
2. Reverse the Department's finding of noncompliance determined on or around November 27, 2013.
3. Reverse the department's removal from her FAP group and redetermine eligibility from the date of such changes.
4. Properly process, certify, and issue a Notice of Case Action concerning Claimant's November 2013 SER application.

5. To the extent required by policy, provide Claimant with retroactive and/or supplemental benefits.



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

Date Signed: February 6, 2014

Date Mailed: February 6, 2014

NOTICE OF APP EAL: 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.

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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

MSN/las

cc:

