

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

IN THE MATTER OF:

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Reg. No.: 2014-24733
Issue No(s): 1001;3008;5000
Case No.: ██████████
Hearing Date: February 26, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 February 26, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Claimant's State Emergency Relief (SER), Family Independence Program (FIP) and Food Assistance Program (FAP) benefits?

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 an unverified date, Claimant submitted an application for SER assistance.
2. On June 25, 2013, the Department sent Claimant a SER Decision Notice informing her of the Department's decision.
3. Claimant was an ongoing recipient of FIP and FAP benefits.
4. On January 22, 2014, Claimant submitted a hearing request disputing the June 25, 2013, SER Decision Notice and the Department's failure to include her son and granddaughter as group members for her FAP and FIP cases, respectively.

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).

SER

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.

In the present case, on an unverified date, Claimant submitted an application for SER assistance with heat and electricity. On June 25, 2013, the Department sent Claimant a SER Decision Notice informing her that she was approved for SER but that she would be required to make a payment towards her request, prior to the Department authorizing its approved payment. (Exhibit 1).

According to BAM 600, the client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.] BAM 600 (July 2013), p. 4.

Claimant did not request a hearing to dispute this adverse action taken by the Department until January 22, 2014. There was no negative action taken by the Department with respect to Claimant's SER benefits during the 90 days preceding the filing of her hearing request; therefore, her hearing request was not timely filed within 90 days of the June 25, 2013, SER Decision Notice and is, therefore, **DISMISSED** for lack of jurisdiction. BAM 600, p 4

FAP

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.

Additionally, Claimant requested a hearing disputing the Department's failure to include her son as a member of her FAP group for the months of July 2013 and August 2013. At the hearing, the Department acknowledged that the FAP group size should have been updated to include Claimant's son as an additional group member, and that it acted in error by failing to do so. The Department testified that Claimant's FAP budget should have been recalculated to reflect the additional group member. Therefore, the Department failed to satisfy its burden that it acted in accordance with Department policy when it calculated Claimant's FAP benefits for July 2013 and August 2013.

FIP

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.

Claimant requested a hearing disputing the Department's failure to include her granddaughter as a member of her FIP group. Claimant testified that her son (the father of Claimant's granddaughter) left the home on August 28, 2013 and that on September 5, 2013, she submitted a change report informing the Department that her son was no longer in the home. Claimant stated that at that time, she requested to have her granddaughter added to Claimant's FIP group, as she was now her guardian. The Department did not refute Claimant's testimony that she submitted a change report on September 5, 2013. The Department stated that Claimant's FIP group was updated to include her granddaughter effective February 2014. Claimant requested that she be supplemented for her lapse in benefits for the Department's failure to include her granddaughter in the FIP group from August 2013 through January 2014.

For FIP cases, changes in need occur when there are changes in: certified group size, living arrangement, or grantee status. BEM 515 (July 2013), p. 3. For changes reported timely (within ten days), the Department will reflect the change the first month that begins at least ten days after the change is reported if administratively possible. Member additions resulting in a grant increase will affect the month after the month the change occurred. BEM 515, p.3. Therefore, the Department did not act in accordance with Department policy when it failed to timely process Claimant's change report and include her granddaughter as a FIP group member.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to SER is DISMISSED and the Department's FAP and FIP decisions are 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. Recalculate Claimant's FAP budget for July 2013 and August 2013, including her son as a qualified group member;
2. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not for July 2013 and August 2013;
3. Process Claimant's change report to include Claimant's granddaughter as a member of the FIP group; and

4. Issue supplements to Claimant for any FIP benefits that she was entitled to receive but did not from the date of the change report, ongoing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 27, 2014

Date Mailed: March 3, 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.

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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

ZB/tm

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