

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

IN THE MATTER OF:



Reg. No.: 14-001473
Issue No.: 1008;5001;6007
Case No.: [REDACTED]
Hearing Date: May 28, 2014
County: WAYNE-DISTRICT 15

ADMINISTRATIVE LAW JUDGE:

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 May 28, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case?

Did the Department properly deny Claimant's State Emergency Relief (SER) application for assistance with rent arrearage?

Did the Department properly deny Claimant's application for change of Child Development and Care (CDC) provider?

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 recipient of CDC and FIP benefits.
2. In January 2014, Claimant applied for SER assistance with rent arrearage and to change his CDC provider.

3. On March 14, 2014, the Department sent Claimant (i) a Notice of Noncompliance notifying him that he had failed to comply with the FIP-related work participation program and scheduling a triage on March 25, 2014, and (ii) a Notice of Case Action notifying him of the closure of his FIP case effective April 1, 2014, based on his noncompliance with employment-related activities without good cause.
4. Respondent did not attend the triage.
5. On April 30, 2014, Claimant filed a request for hearing concerning his FIP, SER and CDC benefits.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

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 to 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 Mich Admin Code, R 400.7001 through R 400.7049.

Additionally, in his April 30, 2014 request for hearing, Claimant indicated that he wished to address his FIP, CDC and SER benefits.

CDC and SER

With respect to his CDC and SER concerns, Claimant testified that he wanted to appeal the Department's denial of his January 2014 application for SER assistance with rent arrearage and the Department's failure to approve his January 2014 application to change his son's provider. In its hearing summary in response to Claimant's hearing

request, the Department only addressed Claimant's FIP case. The Department had no information at the hearing concerning Claimant's CDC and SER applications. The Department was afforded the opportunity to fax any decisions it had made with respect to CDC and SER applications, particularly for purposes of establishing whether Claimant filed a timely hearing request concerning the Department's actions on the CDC and SER applications. See BAM 600 (March 2014), p. 6. However, the Department failed to do so. Therefore, Respondent's CDC and SER issues are addressed herein.

Although Claimant's hearing request referenced the SER and CDC programs, the Department failed to present any evidence concerning his SER and CDC applications or cases. Thus, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy.

FIP

The Department closed Claimant's FIP case for a third occurrence of noncompliance with employment-related activities, resulting in a lifetime sanction from future receipt of FIP benefits.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1; BEM 233A (July 2013), p. 1. A client is in noncompliance with his FIP obligations if he fails or refuses, without good cause, to participate in employment and/or self-sufficiency-related activities for provide legitimate documentation of work participation. BEM 233A, p. 2. The Department alleged that Claimant was in noncompliance with his FIP obligations because he had failed to attend a reengagement appointment on January 17, 2014 and he had stopped submitting job search logs on December 15, 2013.

Before terminating a client from the work participation program and closing his FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. Good cause must be considered even if the client does not attend. BEM 233A, p. 9. Good cause may be verified by information already on file with the Department or PATH. BEM 233A, p. 9.

The Department testified that, because Claimant did not attend the March 25, 2014 triage, it concluded that he had no good cause for his noncompliance. However, the evidence at the hearing established that Claimant's infant was born on December 31, 2013, that she was placed in his care from the time of birth, that he was the child's sole caretaker, and that he had timely notified the Department of the child's birth and placement in his care. A parent with a child under the age of two months is eligible for a deferral from participation in the PATH program for up to two months when the newborn is in the home. BEM 230A (October 2013), p. 8. Because the Department and PATH were advised that the newborn was in Claimant's home, he was eligible for up to two months' deferral from the PATH program. Because the child was born on December

31, 2013, this deferral would continue through the end of February 2014. Accordingly, Claimant had good cause for his failure to participate in the January 17, 2014 appointment. Further, there was no evidence from the Department other than hearsay testimony concerning Claimant's failure to provide job search logs and Claimant disputed the Department's position. Under the facts in this case, Claimant established good cause for his failure to attend the January 17, 2014 meeting and the Department failed to satisfy its burden of showing any other noncompliance. Thus, the Department did not act in accordance with Department policy when it closed Claimant's FIP case for failure to comply with employment-related activities without good cause.

It is further noted that the Department alleged that this was Claimant's third occurrence of noncompliance with FIP employment-related activities. A third occurrence of noncompliance results in a lifetime sanction from FIP eligibility. BEM 233A, p. 8. However, the Department did not present any evidence of prior sanctions, and Claimant denied any prior sanctions. See BEM 233A, pp. 11-12. Thus, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy in applying a third sanction.

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 did not act in accordance with Department policy when it closed Claimant's FIP case and failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's SER and CDC applications.

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. Reinstate Claimant's FIP case effective April 1, 2014;
2. Remove any FIP disqualification applied to Claimant on or about April 1, 2014;
3. Issue supplements to Claimant for any FIP benefits he was eligible to receive but did not from April 1, 2014 ongoing;
4. Reprocess Claimant's January 2014 application to change his son's CDC provider and his January 2014 SER application;
5. Provide Claimant with CDC and/or SER benefits he was eligible to receive but did not from the date of application; and

6. Notify Claimant in writing of its CDC and SER decisions.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/02/2014**

Date Mailed: **06/03/2014**

ACE / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

