

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

IN THE MATTER OF:



Reg. No.: 14-014719
Issue No.: 1008, 3008, 5001
Case No.: [REDACTED]
Hearing Date: November 24, 2014
County: WAYNE-17

ADMINISTRATIVE LAW JUDGE: Lynn Ferris

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 three way telephone hearing was held on November 24, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED], FIS Case Manager.

ISSUE

Did the Department properly close, sanction the Claimant's FIP cash assistance case, and remove the Claimant from her FAP group due to non-participation with the PATH program without good cause.

Did the Department properly deny the Claimant's request for SER relocation expenses and utility reconnection?

Was the Claimant's September 25, 2014 hearing request timely?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant was assigned to attend the PATH program orientation on April 8, 2014. Exhibit 4
2. The Claimant did not attend PATH orientation and a Notice of Non-Compliance was issued on April 26, 2014 advising the Claimant that a triage would be held on May 8, 2014. The Claimant did not appear at the triage. Exhibit 5

3. On May 9, 2014, the Claimant had an email 2-way conference with her then caseworker who advised her to provide the Department with Michigan Rehabilitation programs that she had been offered, so as to determine if Claimant could use this program in lieu of PATH participation.
4. The Claimant did not provide any information to her caseworker regarding the Michigan Rehabilitation program.
5. The Department issued a Notice of Case Action on April 26, 2014. The Notice of Case Action closed the Claimant's FIP cash assistance effective June 1, 2014, and decreased the Claimant's Food Assistance effective June 1, 2014. The Department imposed a three-month sanction due to failure to participate in employment related activities. The Claimant was removed from her Food Assistance for a one-month period. Exhibit 3
6. The Claimant requested a hearing on May 5, 2014 protesting the closure of her FIP cash assistance case and reduction of her food assistance.
7. An Order of Dismissal was issued on July 22, 2014 due to the Claimant's failure to appear at a July 21, 2014 hearing. Exhibit 1
8. On October 6, 2014, an Order Denying Request to Vacate Dismissal of the July 21, 2014 hearing was issued denying the request to have the hearing re-instated and vacate the Order of Dismissal.
9. On September 25, 2014, the Claimant requested another hearing regarding the closure of her FIP cash assistance, reduction of the amount of her FAP benefits as a result of the failure to participate in the Path Program, and the denial of her State Emergency Relief Application.
10. The Claimant attended the PATH program on July 22, 2014 pursuant to a PATH appointment notice. Exhibit 7
11. Claimant was reassigned to the PATH program by Path Appointment Notice dated July 14, 2014 to attend the Path orientation on July 22, 2014. Exhibit 7.
12. Claimant was sent a Notice of Non-Compliance on August 18, 2014 indicating she did not originally comply with the April 24, 2014 Notice of Path Appointment, and scheduled a triage for August 28, 2014. The Claimant was in non-compliance due to failing to appear on April 24, 2014 to attend the PATH orientation and due to her hearing request dismissal, which was effective July 22, 2014. Exhibit 1 and 7. The Claimant did not appear at the triage.

13. The Claimant requested a hearing on September 25, 2014 regarding the FIP case closure and sanction and FAP reduction due to non-compliance with the PATH program and the Department's denial of the Claimant's SER application.

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 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, 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 Mich Admin Code, R 400.7001 through R 400.7049.

PATH NON-COMPLIANCE AND HEARING TIMELINESS

In this case, the Claimant initially timely requested a hearing on May 5, 2014 to protest the closure of her FIP cash case and her removal from her FAP group due to non-participation with the PATH program. The Claimant agreed that she did not appear for her PATH appointment on April 8, 2014 or the triage held May 8, 2014, after the Claimant was found work ready with limitations by the MRT. The Claimant's hearing request was dated May 5, 2014 and was filed in response to a Notice of Case Action dated April 26, 2014. A hearing was scheduled for July 21, 2014 at 10:30 a.m., and the Claimant did not appear. As a result of the Claimant's failure to appear for her hearing, the Michigan Administrative Hearing System dismissed the Claimant's hearing request on July 22, 2014. Thereafter, the Claimant filed another hearing request dated September 25, 2014. In that hearing request, the Claimant states that she was participating in the PATH program July 22, 2014 through August 28, 2014, and was never told that her case was going to be closed. At the hearing, the Department advised that the Claimant was reassigned to the PATH program by Path Appointment Notice dated July 14, 2014 to attend the Path orientation on July 22, 2014. Exhibit 7.

Claimants are required to complete a Request for Hearing within 90 days of the Department's action. In this case, the Department's action closing the Claimant's FIP case and removing her from her FAP group was taken on April 26, 2104, and thus the Claimant had 90 days from that date to request a hearing, or until July 25, 2014. Although the Claimant's original hearing request was timely, that hearing request was dismissed due to the Claimant's failure to appear. Thereafter, the Claimant did not request another hearing until September 25, 2014, seeking a review of the closure of her FIP case and reduction of her FAP benefits and SER denial. The only request which was timely in the September 25, 2014 hearing request was the SER application denial request. The Department was entitled to begin imposition of Claimant's 3-month sanction once her hearing request of May 5, 2014 was dismissed by Order of Dismissal dated July 22, 2014. The Claimant had until July 25, 2014 to request another hearing. Why the Department sent a new Path Appointment Notice to the Claimant on July 14, 2014, prior to the hearing scheduled July 21, 2014, cannot be determined from the evidence presented, and while it no doubt caused confusion, the Claimant was afforded a hearing pursuant to her original hearing request on May 5, 2014, but she failed to appear and her hearing was properly dismissed. Thereafter, the Department is entitled to impose a 3-month sanction based upon the April 26, 2014 Notice of Case Action.

STATE EMERGENCY RELIEF

Additionally, in this case the Department denied the Claimant's July 31, 2014 SER application due to her failure to provide the Department a court ordered eviction notice. Exhibit 7. The Claimant's application indicated that she was living in her god-parent's home at the time of the application. The Claimant had voluntarily moved out of her rented home when the landlord had to make repairs to the home she was renting. When the repairs were completed, the Claimant could no longer afford the rent so she stayed at her god-parents. Under these circumstances, the Claimant was technically not homeless.

ERM 303 provides:

Homeless

Authorize relocation services only if one of the following circumstances exists and all other SER criteria are met.

The SER group is homeless. The definition of homeless includes:

Persons living in an emergency shelter or motel, in HUD-funded transitional housing for homeless persons who originally came from the street, in a car on the street or in a place unfit for human habitation and there is no housing they can return to. Groups who voluntarily left their home, but can return without a threat to their health or safety, are not homeless. ERM 303, (10/1/13) pp. 1-2

Homelessness

- Eviction, judgment, or court order from last residence.
- A demand for possession non-payment of rent or notice to quit is not acceptable.
- Group's statement that they are living with others to escape domestic violence.
- Group's statement that they are sleeping in a car, or on the street and there is no housing they can return to.
- Fire Department report, newspaper article, etc. verifying a fire or natural disaster.

Potentially Homeless

- An eviction order or court summons regarding eviction. (A demand for possession non-payment of rent or a notice to quit is not sufficient.)
- Written statement from DHS services worker or DHS specialist, approved by a manager, when:
 - The current rental unit is unsafe structurally or is otherwise a threat to the health and safety of the family. ERM 303, pp.7-6

As the Claimant did not provide proof that the structure (home) she left was unsafe structurally or otherwise, unsafe or a threat to health and safety of the family, based upon her application and the information provided to the Department, she cannot be considered potentially homeless. Although the home may have met this criteria, the Claimant provided no proof to the Department, and thus was also not potentially homeless.

Based upon the evidence presented, the Department correctly denied the Claimant's SER application.

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 acted in accordance with Department policy when it closed the Claimant's FIP cash case and reduced her FAP benefits due to non compliance with the Path Program requirements,

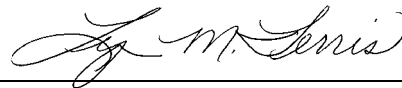
and imposed a first sanction as the Claimant's first hearing request was dismissed for failure to attend the hearing and her second hearing request was untimely and, therefore, must be DISMISSED AS TO THESE ISSUES.

The Department also acted in accordance with Department policy when it denied the Claimant's SER application due to her not meeting the requirements of homelessness, and failure to present the necessary proofs to support an eviction or that her home was unsafe or a threat to health and safety.

DECISION AND ORDER

Accordingly, the Department's decision denying the Claimant's SER application is AFFIRMED.

The Claimant's September 25, 2014 Hearing Request regarding closure of her FIP cash assistance and FAP benefit reduction due to non-compliance with the Path Program requirements and imposition of a 3-month sanction is DISMISSED.



Lynn Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/1/2014**

Date Mailed: **12/1/2014**

LMF /tm

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 48909-8139

cc:

