

**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.: 14-006203
Issue No.: 1000; 3000; 5002
Case No.: ██████████
Hearing Date: July 31, 2014
County: WAYNE-DISTRICT (15)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 July 31, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████ and Claimant's mother, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Specialist / Partnership. Accountability.Training.Hope. (PATH) Case Manager.

ISSUE

Did the Department properly deny Claimant's request for State Emergency Relief (SER) assistance for shelter emergency?

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 May 28, 2014, Claimant applied for SER assistance for rent to prevent eviction in the amount of \$1,165.
2. On June 2, 2014, the Department sent Claimant an SER Decision Notice, which denied Claimant's rent to prevent eviction request due to her not having a court ordered eviction notice. See Exhibit 2, pp. 1-2.
3. On July 3, 2014, Claimant filed a hearing request, protesting her Cash (Family Independence Program (FIP)) benefits, Food Assistance Program (FAP) benefits, and SER denial. See Exhibit 1, p. 2.

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.

Preliminary matters

First, Claimant also requested a hearing disputing her FAP benefits. See Exhibit 1, p. 2. Shortly after commencement of the hearing, Claimant testified that she is receiving her FAP benefits and that she is no longer protesting her FAP benefits. As such, Claimant's FAP hearing request is DISMISSED.

Second, Claimant also requested a hearing disputing her FIP benefits, which she notated that her cash benefits had not been adjusted after giving birth to her child. See Exhibit 1, p. 2. On July 2, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective August 1, 2014, ongoing, due to her failure to participate in employment and/or self-sufficiency related activities without good cause. See Exhibit 2, pp. 3-4. However, the Department's hearing summary indicated that the Claimant visited the local DHS office for her scheduled triage on July 7, 2014 and also to inquire on why her FIP grant did not increase due to the birth of her child. See Exhibit 1, p. 1. On July 7, 2014, the Department gave Claimant a good-cause reason for her triage and her benefits were restored with the newborn added to the case. See Exhibit 1, p. 1. During the hearing, the Department provided Claimant's FIP Eligibility Summary, which showed that she did have an increase in the group size and grant amount. See Exhibit 1, p. 3. Moreover, the Eligibility Summary indicated that

Claimant had ongoing FIP benefits and that she received benefits for August 1, 2014, ongoing. See Exhibit 1, p. 3.

Based on the foregoing information and evidence, Claimant's FIP issue is moot because of the Department's subsequent actions. The Department found good-cause for Claimant's FIP non-compliance and her benefits were restored. See Exhibit 1, pp. 1 and 3. Additionally, the Department added Claimant's newborn to the FIP group. See Exhibit 1, pp. 1 and 3. As such, Claimant's FIP issue is moot and therefore, her FIP hearing request is DISMISSED. See BAM 600 (July 2014), pp. 4-6.

It should be noted that Claimant testified that she should have received more Cash benefits, that she was on maternity leave since May 11, 2014, and she kept being denied Cash benefits. However, Claimant's hearing request does not mention any form of Cash denial and only disputes that her Cash benefits had not been adjusted after giving birth to her child. See Exhibit 1, p. 2. Nevertheless, Claimant acknowledged that her FIP issue has been resolved; therefore, her FIP hearing request is also DISMISSED for the above reason.

Third, on May 28, 2014, Claimant also applied for SER assistance for electricity, heat, and water or sewage. See Exhibit 2, p. 1. On June 2, 2014, the SER decision addressed the SER service request for electricity, heat, and water or sewage. See Exhibit 2, p. 1. During the hearing, Claimant testified that she is not disputing the SER decisions and/or requests for electricity, heat, and water or sewage. Claimant testified that she is only disputing the SER denial (dated June 2, 2014) assistance request for rent to prevent eviction.

Fourth, Claimant also subsequently applied for SER assistance again for rent to prevent eviction. On July 11, 2014, the Department sent Claimant an SER Decision Notice, which denied her assistance request for rent to prevent eviction due to her shelter not being affordable. See Exhibit 2, pp. 5-6. However, this hearing lacks the jurisdiction to address the SER denial dated July 11, 2014 because it occurred subsequent to Claimant's hearing request. See Exhibit 1, p. 2 and BAM 600, pp. 4-6. Claimant can request another hearing to dispute the SER denial dated July 11, 2014. See BAM 600, pp. 4-6. As such, this hearing decision will only address Claimant's SER denial (dated June 2, 2014) for rent to prevent eviction.

SER application

SER assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. ERM 303 (October 2013), p. 1. A covered service can be the combination of a first month's rent, security deposit, and moving expenses. ERM 303, p. 1.

Moreover, SER assistance can be sought for homelessness or potential homelessness. ERM 303, pp. 6 and 7. For homelessness, verification includes an eviction, judgment,

or court order from last residence (A demand for possession non-payment of rent or notice to quit is not acceptable). ERM 303, p. 6. For potential homelessness, verification includes an eviction order or court summons regarding eviction (a demand for possession non-payment of rent or a notice to quit is not sufficient). ERM 303, p. 6.

In this case, on May 28, 2014, Claimant applied for SER assistance for rent to prevent eviction in the amount of \$1,165. On June 2, 2014, the Department sent Claimant an SER Decision Notice, which denied Claimant's rent to prevent eviction request due to her not having a court ordered eviction notice. See Exhibit 2, pp. 1-2.

At the hearing, the Department testified that Claimant failed to provide a court ordered eviction notice and therefore, her rent to prevent eviction notice was denied. Claimant testified that she did not know initially that she had to provide a court order eviction notice with the application. Claimant testified that she subsequently discovered from her DHS caseworker that she needed to provide a court ordered eviction notice. Between June 15, 2014 and June 18, 2014, Claimant testified that she submitted her court ordered eviction notice at her local DHS office and signed the log book. Claimant provided copies of alleged documentation that she submitted in mid-June 2014. See Exhibit A, pp. 1-5. The Department also testified that it did not send Claimant an SER Verification Checklist in order to request verification of the court ordered eviction notice.

It should be noted that Claimant provided the following documentation: a Summons for a Landlord-Tenant / Land Contract dated June 11, 2014, a Complaint for Non-Payment of Rent Landlord-Tenant dated June 10, 2014, and a Demand for Possession Nonpayment of Rent Landlord-Tenant dated June 3, 2014. See Exhibit 1, pp. 1-5.

Clients must be informed of all verifications that are required and where to return verifications. ERM 103 (October 2013), p. 6. The due date is eight calendar days beginning with the date of application. ERM 103, p. 6. The Department uses the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 6.

The client must make a reasonable effort to obtain required verifications. ERM 103, p. 6. The specialist must assist if the applicant needs and requests help. ERM 103, p. 6. If neither the client nor the specialist can obtain the verifications despite a reasonable effort, the Department uses the best available information. ERM 103, p. 6. If no evidence is available, the specialist must use their best judgment. ERM 103, p. 6.

Based on the foregoing information and evidence, the Department improperly denied Claimant's SER assistance request for rent to prevent eviction. The Department required that Claimant submit a court ordered eviction notice. Even though Claimant failed to provide the necessary documentation at the time of application, ERM 103 states that clients must be informed of all verifications that are required and where to return verifications. ERM 103, p. 6. The Department uses the DHS-3503, SER Verification Checklist, to request verification and to notify the client of the due date for returning the verifications. ERM 103, p. 6. As such, the Department should have sent

Claimant an SER Verification Checklist to request proof of her eviction. See ERM 103, p. 6. Because the Department failed to send Claimant an SER Verification Checklist to request proof of the eviction, it improperly denied her SER assistance request for shelter emergency on June 2, 2014.

DECISION AND ORDER


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 improperly denied Claimant's SER assistance for rent to prevent eviction (SER Decision Notice dated June 2, 2014).

Accordingly, the Department's SER 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. Initiate re-registration and processing of Claimant's SER application with rent to prevent eviction dated May 28, 2014, in accordance with Department policy and as the circumstances existed at the time of application;
2. Begin issuing supplements to Claimant for any SER benefits she was eligible to receive but did not from date of application; and
3. Begin notifying Claimant in writing of its SER decision in accordance with Department policy.

IT IS ALSO ORDERED that Claimant's FAP and FIP hearing request (dated July 3, 2014) is **DISMISSED**.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **8/4/2014**

Date Mailed: **8/4/2014**

EJF/cl

