

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201414411
Issue No.: 2002; 3002; 5001
Case No.: [REDACTED]
Hearing Date: December 18, 2013
County: Wayne County DHS # 19

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 December 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Eligibility Specialist, and [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly deny Claimant's State Emergency Relief (SER) applications for assistance with a land contract down-payment?

Did the Department properly process Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) cases?

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 MA and FAP benefits.
2. On October 2, 2013, Claimant submitted a SER application for assistance with a land contract down-payment.
3. On October 11, 2013, the Department denied the SER application because Claimant had failed to provide (i) the new landlord's provider identification number and (ii) a judgment or a summons and demand for possession.
4. On November 6, 2013, Claimant reapplied for SER assistance with the land contract down-payment and provided a letter from her former employer showing that her employment had ended October 26, 2013.

5. On November 14, 2013, the Department denied Claimant's SER application because the service requested was not covered by SER policy.
6. On November 14, 2013, the Department sent Claimant a Verification Checklist (VCL) to determine her ongoing eligibility for MA and FAP and requested a copy of her last paystub from her former employer by November 25, 2013.
7. On November 21, 2013, Claimant filed a request for hearing concerning her MA and FAP cases and her SER applications.

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 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 Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

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, Claimant requested a hearing concerning her FAP and MA cases and her SER applications.

FAP and MA Cases

The Department explained that, after Claimant notified the Department in connection with her November 6, 2013 SER application that she was no longer employed, it sent Claimant a November 14, 2013 VCL requesting a copy of her last pay stub in order to determine her ongoing eligibility for FAP and MA. The VCL due date was November 25, 2013, after Claimant's hearing request was filed. However, the Department testified that Claimant's MA and FAP cases were placed in "pending" status beginning in November 2013 until the verifications were provided which resulted in benefits not being issued until Claimant submitted the requested verification. The Department further explained that Claimant received FAP benefits only because she had filed a timely hearing request.

At the hearing, the Department explained it had not issued a Notice of Case Action concerning Claimant's FAP and MA cases because she would be issued benefits once she provided the requested verifications. However, it acknowledged that no benefits would be issued until the verifications were provided.

A decrease in program benefits and the termination of a member's medical eligibility is a negative action. See BAM 220 (July 2013), pp. 1, 10. A pending negative action requires timely notice. BAM 220, pp. 11-12. A timely notice is mailed at least 11 days before the intended negative action takes effect in order to provide the client a chance to react to the proposed action. BAM 220 (July 2013), p. 4. In this case, by placing Claimant's FAP and MA cases in "pending" status while awaiting return of the requested verification, the Department stopped issuing benefits to Claimant without notice. In doing so, the Department failed to act in accordance with Department policy.

It is further noted that, while the Department must budget the final income expected to be received in the benefit month for stopping income, the Department must use the best available information from the source and the client to determine the amount of the last check expected and remove stopped income from the budget for future months. BEM 505, p. 7.

In this case, Claimant credibly testified that, when she received the VCL she called the former employer but could get no response so she called her worker to let her know that she could not get any further information from the employer because she was dismissed from employment. As Claimant pointed out, there was a telephone number on the November 6, 2013, letter from the employer she provided to the Department concerning her end of employment and the employer representative indicated on the letter that she could be contacted for further information. Claimant further credibly testified that she did not receive her last pay and paystub until well after the VCL due date. Under these facts, the Department did not act in accordance with Department policy in processing Claimant's last paycheck when it failed to contact the employer for the additional income information it had requested and consider the best available information.

SER Denials

Claimant filed SER applications on October 2, 2013, and on November 6, 2013, seeking \$1400 for a security deposit. She attached a copy of a Land Contract Amortization agreement signed by her and the seller showing that Claimant had agreed to purchase a home on land contract. The evidence at the hearing established that Claimant was seeking SER assistance so that she could enter into the land contract.

Home ownership services are available for house payments (consisting of mortgage, land contract payment or mobile home sales contract) necessary to save a home threatened with loss due to mortgage foreclosure, land contract forfeiture, tax foreclosure or sale, court-ordered eviction of a mobile home from land or a mobile home park, or repossession for failure to meet an installment loan payment for a mobile home. ERM 304 (October 2013), pp. 1-2, 4. As a condition of eligibility for home ownership services, the applicant must establish that the home is the SER group's permanent, usual residence. ERM 304, p. 4. ERM 304 (March 2013), p. 1.

In this case, the Department testified that Claimant was living in an apartment at the time she requested home ownership services. Claimant clarified that her apartment had been in a fire and that she was living from place to place but acknowledged that she was seeking SER assistance for the down payment to enter into the land contract. Because Claimant was seeking SER home ownership services for a home that was not her permanent, usual residence, and there was no evidence that the property was subject to forfeiture, the Department acted in accordance with Department policy when it denied the SER applications. Although the Department worker testified that she was not aware of Department policy prohibiting SER assistance to assist in home purchases via land contract at the time of the first application, because Claimant was not eligible for assistance under ERM 304 at the time of either the October 2, 2013 or November 6, 2013 SER applications, the Department acted in accordance with Department policy when it denied the applications.

It is noted that Department policy provides for relocation services assistance for an individual threatened with homelessness by providing money for rent, security deposits and moving expenses, or a combination of the foregoing. ERM 303 (October 2013), p. 1. In this case, although Claimant's application requests assistance with a \$ [REDACTED] "security deposit," the Land Contract Amortization agreement shows that the \$ [REDACTED] requested was actually a down payment for the home at issue. Because SER assistance for purchase of a home is not covered under relocation services, the Department acted in accordance with Department policy when it did not process Claimant's applications as requests for relocation services assistance.

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 denied Claimant's SER applications but did not act in accordance with Department policy when it processed Claimant's FAP and MA cases.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to denial of the SER applications and REVERSED IN PART with respect to processing of Claimant's FAP and MA cases.

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 FAP and MA cases effective November 1, 2013;
2. Calculate Claimant's FAP and MA budgets based on best available income information;

3. Issue supplements to Claimant for FAP benefits she was eligible to receive but did not from November 1, 2013, ongoing;
4. Provide Claimant with MA coverage she and her child are eligible to receive from November 1, 2013, ongoing.



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

Date Signed: December 27, 2013

Date Mailed: December 27, 2013

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.

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

ACE/hj

cc:

