

**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.: 2014-14618
Issue No(s): 1000;2000;3011;5011
Case No.: ██████████
Hearing Date: February 3, 2014
County: Wayne (31)

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 three way telephone hearing was held on February 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist and ██████████, Lead Specialist with the Office of Child Support (OCS).

ISSUE

Did the Department properly process Claimant's Family Independence Program (FIP), Medical Assistance (MA), Food Assistance Program (FAP), and State Emergency Relief (SER) 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. There was no negative action taken with respect to Claimant's FIP and MA benefits within the 90 days prior to her filing a hearing request.
2. Claimant was an ongoing recipient of FAP benefits.
3. Claimant was approved for FAP benefits of ██████████ effective November 1, 2013 for a group size of one.
4. On November 12, 2013, Claimant submitted an application for SER assistance.

5. On November 14, 2013, the Department sent Claimant a SER Decision Notice informing her that her application had been denied on the basis that she failed to cooperate with child support requirements. (Exhibit 1)
6. On November 21, 2013, Claimant submitted a hearing request disputing the Department's actions.

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).

FIP/MA

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.

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 Michigan Administrative Code R 400.903(1) provides as follows:

An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied or is not acted upon with reasonable promptness, and to any recipient who is aggrieved by an agency action resulting in suspension, reduction, discontinuance, or termination of assistance.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Bridges Administrative Manual (BAM) 600 (July, 2013), p. 4, provides in relevant part as follows:

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.]

Claimant submitted a hearing request disputing the actions of the Department with respect to her FIP and MA benefits. Soon after commencement of the hearing, Claimant testified that she was not an active and ongoing recipient of FIP and MA benefits and that she had not submitted an application for FIP and MA within the 90 days prior to her filing of a hearing request. Therefore, the Department had neither determined Claimant's eligibility for FIP and MA nor had the Department taken any negative action with respect to Claimant's benefits prior to her hearing request; therefore, Claimant's hearing request with respect to FIP and MA is **DISMISSED** for lack of jurisdiction. BAM 600, p 4. Claimant was informed that she could submit an application for FIP and MA and have her eligibility determined.

FAP/SER

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 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, the custodial parents of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom she receives assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (October 2013), pp. 1. A client's cooperation with paternity and obtaining child support is a condition of FAP eligibility. BEM 255, pp. 1, 9-11. Cooperation is required in all phases of the process to establish paternity and obtain support and includes providing all known information about the absent parent. BEM 255, p 8. Any individual required to cooperate who fails to cooperate without good cause may result in group ineligibility or member disqualification for FAP. BEM 255, pp. 9-11. Department policy found in ERM 203 provides that Groups that are non-cooperative with the Office of Child Support are also ineligible for SER. ERM 203 (June 2013), p. 2.

In this case, the Department testified that Claimant was disqualified as a group member from her FAP case and that her SER application was denied on the basis that she failed to cooperate with child support requirements.

At the hearing, the Department testified that on September 8, 2011, and January 27, 2012, the OCS sent Claimant Contact Letters informing her to contact OCS and provide information regarding the noncustodial parent. A Noncooperation Notice was issued to Claimant on July 1, 2012, informing her that because she had not contacted the OCS with information concerning the father of her child, she was considered to be noncooperative with child support and that her cases would be impacted.

Claimant testified that she did not receive any of the contact letters sent by the OCS because she was no longer living at the address the letters were sent. Claimant stated that the first time she became aware that she was in noncooperation with child support when her SER application was denied. Claimant testified that she contacted the OCS and provided all of the information she had on the father in order to resolve the issue with child support. Claimant indicated that her child was conceived after a one night stand and that she met the father for the first time that night. Claimant stated that she was under the influence of alcohol and does not recall exactly what happened the night her child was conceived. Claimant identified one man who she believed was the father of her child and provided OCS with his name, age range, race, and physical description; however, the OCS representative stated that the information provided by Claimant was insufficient to find her in cooperation with child support requirements.

Under the facts presented, the OCS failed to establish that Claimant did not disclose all known information concerning the father of her child and that she had additional information regarding the father's identity, thereby, making her ineligible for SER and FAP.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined that Claimant was ineligible for SER and FAP benefits based on a noncooperation with child support requirements.

DECISION AND ORDER

Accordingly, Claimant's hearing request with respect to FIP and MA is DISMISSED and the Department's FAP and SER 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. Remove the child support sanctions that were placed on Claimant cases;
2. Register and process Claimant's November 12, 2013, SER application to determine her eligibility for as of the application date;
3. Issue a new SER Decision Notice;
4. Recalculate Claimant's FAP budget effective November 1, 2013, including her as an eligible group member; and

5. Issue supplements to Claimant for any FAP benefits that she was entitled to receive but did not from November 1, 2013, ongoing.



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

Date Signed: February 20, 2014

Date Mailed: February 21, 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.

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

2014-14618/ZB

ZB/tm

cc:

[REDACTED]
[REDACTED]
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