

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-20152
Issue No(s): 1011, 5001
Case No.: [REDACTED]
Hearing Date: March 11, 2014
County: Wayne County DHS #41

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 March 11, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Administrative Hearing Coordinator, and [REDACTED] [REDACTED] Lead Child Support Specialist. [REDACTED] [REDACTED] Hearing Facilitator back up, was present as an observer.

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) application based on non-cooperation with child support requirements?

Did the Department properly deny Claimant's State Emergency Relief (SER) application for rent to prevent eviction because the shelter was not affordable according to program requirements?

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 or about November 7, 2013, Claimant applied for FIP.
2. On November 7, 2013, a Verification Checklist was issued to the Claimant with a due date of November 18, 2013 indicating the Claimant needed to contact the Office of Child Support.
3. Claimant was found to be in compliance with child support requirements as of November 18, 2013.

4. Claimant's FIP application was denied based on non-cooperation with child support requirements.
5. On or about December 9, 2013, Claimant applied for SER for rent to prevent eviction.
6. On December 10, 2013, a SER Decision Notice was issued stating the SER request for rent to prevent eviction was denied because the shelter was not affordable according to program requirements.
7. On December 23, 2013, the Claimant filed requests for hearing contesting 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

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.

Additionally, parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. Cooperation is a condition of eligibility for FIP. Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. The Department worker is to ask a disqualified client at application, redetermination or reinstatement if they are willing to cooperate. A disqualified member may indicate willingness to cooperate at any time. Immediately inform clients willing to cooperate to contact the primary worker from the CS icon or a support specialist can be reached by calling 1-866-540-0008 or 1-866-661-0005. BEM 255.

The Claimant applied for FIP on or about November 7, 2013. Claimant had been in non-cooperation status since May 9, 2013. (Exhibit A, page 19) Accordingly, on November 7, 2013, a Verification Checklist was issued to the Claimant with a due date of November 18, 2013 indicating the Claimant needed to contact the Office of Child Support. While no copy of the Notice of Case Action regarding the FIP application was included within the 19 page hearing summary packet for the FIP action (Exhibit A), the Administrative Hearings Coordinator testified the Department denied the FIP application

based on Claimant continuing to be in non-cooperation status on the November 18, 2013 due date.

However, the Bridges print out regarding child support non-cooperation establishes that Claimant was found to be in compliance with child support requirements as of November 18, 2013. (Exhibit A, page 19) The Lead Child Support Specialist's testimony indicated that it can take 24-48 hours for the change in status to be reflected in the Department's computer system. The Administrative Hearings Coordinator acknowledged that had the local Department office been able to see the cooperation status as of November 18, 2013, it should have changed the eligibility determination made for Claimant's FIP application. Accordingly, the denial of Claimant's FIP application based on non-cooperation with child support requirements cannot be upheld.

SER

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.

SER for relocation services assists individuals and families to resolve or prevent homelessness by providing money for rent, security deposits, and moving expenses. SER for relocation services can only be approved if the group's rental obligation meets the criteria for housing affordability specified in ERM 207. ERM 303

Total housing obligation means the total amount the SER group must pay for rent, house payment, mobile home lot rent, property taxes and required insurance premiums. Renters can have a higher total housing obligation if heat, electricity and/or water/cooking gas are included. ERM 207

Authorize SER for services only if the SER group has sufficient income to meet ongoing housing expenses. An SER group that cannot afford to pay their ongoing housing costs plus any utility obligations will not be able to retain their housing, even if SER is authorized. ERM 207.

Deny SER if the group does not have sufficient income to meet their total housing obligation. The total housing obligation cannot exceed 75 percent of the group's total net countable income. ERM 207.

Pursuant to ERM 207, to determine whether an SER group meets the Housing Affordability requirement:

- Multiply the group's total net countable income by 75 percent. The result is the maximum total housing obligation the group can have based on their income, and be eligible for SER housing services, and

- Refer to the table¹ at the end of this item for any increases in the basic 75 percent test if the group is renting and heat, electric or water/cooking gas is included in the rent. Multiply the resulting percentage by the group's total net countable income. The result is the absolute total housing obligation the group can have and be eligible for SER housing services.

Under the ERM 207 policy, when utilities are included in rent, up to 100% of income can be considered for the maximum total housing obligation.

In this case, the December 10, 2013, SER Decision Notice states the SER request for rent to prevent eviction was denied because the shelter was not affordable according to program requirements. (Exhibit B, pages 14-15) The Administrative Hearing Coordinator testified the Claimant's rent was reported as \$ [REDACTED] and no income was reported. Accordingly, even if all utilities were included in Claimant's rent, the housing would not be affordable because there was no income to meet ongoing housing expenses. Claimant testified she does not really disagree with the SER denial and noted she had just lost her job at that time.

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 application because the shelter was not affordable according to program requirements but did not act in accordance with Department policy when it denied Claimant's FIP application based on non-cooperation with child support requirements.

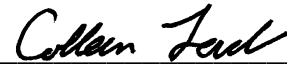
DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED IN PART with respect to the SER application denial and REVERSED IN PART with respect to FIP application denial.

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 When heat is included in the rent add 15% to the basic 75% housing cost standard. When electric is included in the rent add 5% to the basic 75% housing cost standard. When water or cooking gas or both are included in the rent add 5% to the basic 75% housing cost standard.

1. Re-instate Claimant's November 7, 2013 FIP application and re-determine eligibility in accordance with Department policies.
2. Issue Claimant any supplement she may thereafter be due.



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 31, 2014

Date Mailed: March 31, 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

201420152/CL

CL/hj

cc:

