

**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 21875
Issue No(s): 2011,3011 5001
Case No.: ██████████
Hearing Date: February 6, 2014
County: Wayne (15)

ADMINISTRATIVE LAW JUDGE: Lynn M. 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 telephone hearing was held on February 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, ES, and ██████████, Lead Support Specialist, Office of Child Support.

ISSUE

Did the Department properly deny the Claimant's State Emergency Relief, (SER), and Medical Assistance for Claimant and her children, and remove the Claimant from her Food Assistance (FAP) Group?

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 found in non-cooperation by the Office of Child support on November 5, 2013.
2. Two letters were sent to the Claimant on September 27, 2013 and October 16, 2013 regarding contacting the office of Child Support regarding her daughter's three children who had been placed with the Claimant by Protective Services and Foster Care Services. The letters were sent to the Claimant at the correct address.

3. The Claimant did not contact the Office of Child Support, but a Foster Care worker advised the Office of Child Support on January 21, 2014 and the Claimant was found in cooperation.
4. The Claimant applied for SER relief for her utilities on December 16, 2013 and was denied on January 8, 2013 due to non-cooperation with the Office of Child Support.
5. The Claimant applied for medical assistance for her three grandchildren in October, November and December 2013 and was denied due to the fact that the children were open in another case.
6. The Claimant received food assistance for the months of October (\$707), November (\$663), December (\$599) and January (\$595). The Claimant was in non-cooperation at the time the benefits were issued.
7. The Claimant was found in cooperation by the Office of Child Support on January 21, 2014.
8. The Claimant requested a hearing protesting the Department's actions on December 30, 2013.

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, at the hearing it was determined based upon the Claimant's testimony that the Claimant never contacted the Office of Child support and, therefore, was placed in non-cooperation.

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, pp. 2 (6/1/13). Thus, the SER application was denied as the Claimant was in non cooperation at the time.

It appears that the reason the Claimant was consistently denied medical assistance for her three grandchildren and herself is due to the fact that the grandchildren were open in another case; thus, the Claimant was not an eligible caretaker relative. Given the facts established at the hearing, the Department must take steps to correct its records so the grandchildren are open in the Claimant's case, as she has custody of the children.

Although the Claimant testified that she did not receive the several letters sent to her by the OCS, the letters were addressed to the Claimant at the correct address and thus were presumed to be received, as the Claimant did not indicate that she had problems with her mail. The Claimant was required by BEM 255 to contact the OCS even though the children were her daughter's children, as the Department is required to determine the whereabouts of an absent parent. Policy in BEM 255 provides:

Cooperation is a condition of eligibility. The following individuals who receive assistance on behalf of a child are required to cooperate in establishing paternity and obtaining support, unless good cause has been granted or is pending:

- Grantee (head of household) and spouse.
- Specified relative/individual acting as a parent and spouse.
- Parent of the child for whom paternity and/or support action is required.

Cooperation is required in all phases of the process to establish paternity and obtain support. It includes **all** of the following:

- Contacting the support specialist when requested.
- Providing all known information about the absent parent.
- Appearing at the office of the prosecuting attorney when requested.
- Taking any actions needed to establish paternity and obtain child support (including but not limited to testifying at hearings or obtaining genetic tests). BEM 255 pp. 9.

Additionally BEM 255 which governs child support non-cooperation requires that a Food Assistance group member who is in non-cooperation is to be removed from her FAP group. Such was the case in this matter. BEM 255 (1/1/14)

It is also determined by this Decision that the Claimant was in cooperation as of January 21, 2014.

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 properly denied the Claimant's applications for SER and Medical Assistance and properly removed her from the FAP group due to non-cooperation with the Office of Child Support.

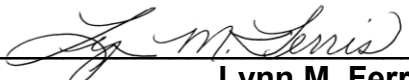
acted in accordance with Department policy when it denied the Claimant's application for Medical Assistance and State Emergency Relief and removed the Claimant from her FAP group.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.

The Claimant is in cooperation with the Office of Child Support as of January 21, 2014.


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

Date Signed: February 12, 2014

Date Mailed: February 13, 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

LMF/cl

cc:

[Redacted]