

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

IN THE MATTER OF:

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MAHS Reg. No.: 15-017193
Issue No.: 1001; 5001
Agency Case No.: ██████████
Hearing Date: November 12, 2015
County: Wayne-District 76

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 12, 2015, from Detroit, Michigan. Petitioner represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Family Independence Manager.

ISSUE

Did the Department properly deny Petitioner's July 1, 2015 application for Family Independence Program (FIP) 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. On July 1, 2015, Petitioner applied for FIP and SER benefits, identifying herself as disabled and homeless.
2. On July 2, 2015, the Department sent Petitioner (i) a PATH appointment notice requiring her to attend a PATH orientation on July 13, 2015 (Exhibit C) and (ii) a SER Decision Notice denying her request for SER assistance (Exhibit H).
3. Petitioner did not attend the PATH orientation.
4. On August 17, 2015, the Department sent Petitioner a Notice of Case Action denying her FIP application because she failed to attend the PATH program orientation (Exhibit E).

5. On September 14, 2015, Petitioner filed a request for hearing disputing the Department's actions (Exhibit F).

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

Petitioner challenged the Department's denial of her applications for FIP and SER assistance.

Denial of FIP Application

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 Department of Human Services) 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-.3131.

The Department denied Petitioner's July 1, 2015 FIP application because Petitioner had failed to attend the PATH orientation. Generally, to be eligible for FIP, a client must complete the 21-day PATH application eligibility period (AEP), which begins with the client's attendance of the PATH orientation. BEM 229 (July 2013), p. 1. However, before referring a client to PATH at application, the Department must review the client's application, the DHS-619-Jobs and Self-Sufficiency Survey completed by the client, and other information in the case record to make a preliminary barrier assessment to determine the client's readiness for a PATH referral. BEM 229, pp. 1-2. The Department must temporarily defer an applicant who has identified barriers that require further assessment or verification before a decision about a lengthier deferral is made, such as clients with serious medical problems. BEM 229, p. 2; BEM 230A (July 2015), p. 12. Clients should not be referred to orientation and AEP until possible reasons for deferral have been considered and assessed. BEM 229, p. 2.

In this case, Petitioner identified herself as disabled in her July 2015 application. The Department testified that it concluded that Petitioner's disability was her pregnancy and, accordingly, determined that she was ineligible for a deferral and sent her the PATH appointment notice. The Department further testified that it had never sent Petitioner's medical case to its Medical Review Team for assessment. Petitioner testified that her disability was unrelated to her pregnancy, that her worker never asked her about her disability, and that the application does not ask the client to identify the disability. In light of the fact that Petitioner identified herself as disabled and she alleges a disability unrelated to her pregnancy, the Department did not act in accordance with Department

policy when it required Petitioner to attend the PATH orientation before it assessed the disability **and** requested verification of the disability from Petitioner.

Denial of SER Application

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 Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049.

The Department denied Petitioner's application for SER assistance with rent to relocate, moving expenses, and security deposit because it concluded that she did not have an emergency (Exhibit H). At the hearing, the Department explained that Petitioner had not verified that she was homeless.

SER assistance with relocation services 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. As a condition of SER eligibility, the SER group must be homeless. ERM 303, p.1. Homeless is defined to include "persons living in . . . a place unfit for human habitation and there is no housing they can return to. Groups who voluntarily left their home, but can return without a threat to their health or safety, are not homeless." Persons living on the street, in a car or place unfit for human habitation should have a signed and dated general certification form from an outreach or service worker verifying that the person is homeless and indicating where the person resides on official letterhead, signed and dated. ERM 303, pp. 2-3. Potential homelessness if verified by a written statement from a Department services worker or specialist, approved by a manager, when (i) the current rental unit is unsafe structurally or is otherwise a threat to the health and safety of the family or (ii) the family needs adequate, affordable housing to avoid a foster care placement. ERM 303, pp. 6-7.

In this case, Petitioner's testimony established that she lived in a home on [REDACTED] Street but that she had been advised by Children's Protective Services (CPS) that the home was not habitable. According to Petitioner, CPS opened a case for her children that did not close until Petitioner left the [REDACTED] home in late July 2015. The Department testified that Petitioner had failed to verify her homelessness. However, there was no evidence that the Department requested any verification or explained to Petitioner what verification was required. See BAM 130 (July 2015), p. 3. Further, in situations where a home is unsafe or where adequate, affordable housing is necessary to avoid foster care placement, under ERM 303 the onus is on the Department to verify the potential homelessness. Under the facts presented, the Department did not act in accordance with Department policy when it denied Petitioner's SER application for relocation services for failure to verify homelessness.

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 denied Petitioner's FIP and SER applications.

DECISION AND ORDER

Accordingly, the Department's 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. Reinstate and reprocess Petitioner's July 1, 2015 SER and FIP application;
2. Issue supplements to Petitioner (or to Petitioner's provider, if applicable) for any SER and/or FIP benefits Petitioner was eligible to receive but did not from July 1, 2015 ongoing; and
3. Notify Petitioner in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/20/2015**

Date Mailed: **11/20/2015**

ACE / ttf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

