

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

IN THE MATTER OF:

██████████
██████████
██████████

MAHS Reg. No.: 15-021478
Issue No.: 1000;5001
Agency Case No.: ██████████
Hearing Date: January 28, 2016
County: Wayne-District 55

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 January 28, 2016, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department was represented by ██████████, Hearings Facilitator and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly process Petitioner's Family Independence Program (FIP) benefits and her application for State Emergency Relief (SER) assistance with her heating, electric, and water bills?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner was previously a recipient of FIP benefits.
2. On January 28, 2011, the Department sent Petitioner a Notice of Case Action informing her that effective March 1, 2011, her FIP case would be closed on the basis that the group's countable income exceeds the limit for the program. (Exhibit C)
3. Petitioner did not establish that she reapplied for FIP benefits prior to her hearing request.

4. On November 3, 2015, Petitioner submitted an application for SER assistance with paying her outstanding heat, electric and water bills.
5. On November 4, 2015, the Department sent Petitioner a SER Decision Notice informing her that the Department approved \$850 towards the her request for assistance with electric bills, \$850 towards her request for assistance with heat bills, and \$175 towards her request for assistance with water bills. The Notice further informs Petitioner that she was required to make copayment towards her request for assistance and provide proof that her payment has been made prior to December 2, 2015, or the Department would not make its approved payments. (Exhibit F)
6. Petitioner did not provide the Department with proof that she made her required copayments or that she had a commitment to have the payment made prior to December 2, 2015.
7. On November 9, 2015, Petitioner requested a hearing disputing the Department's actions with respect to her FIP and SER cases.

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).

FIP

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.

A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Human Services Bridges Administrative Manual (BAM) 600 (October 2015), p. 2. MAHS may grant a hearing about a denial of an application and/or supplemental payments; reduction in the amount of program benefits or service; suspension or termination of program benefits or service; restrictions under which benefits or services are provided or delay of any action beyond the standards of promptness. BAM 600, pp.4-5. Moreover, BAM 600, p. 6 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action.

In the present case, the Department testified that Petitioner was previously receiving FIP benefit and that on January 28, 2011, the Department sent Petitioner a Notice of Case Action advising Petitioner of its decision to close her FIP case effective March 1, 2011, on the basis that her income exceeded the limit. (Exhibit C). The Department stated that it had no record of any FIP applications submitted by Petitioner prior to the hearing request date and that the only application on file was the one that Petitioner subsequently submitted requesting FIP benefits on December 3, 2015, as evidenced by the Program Request Summary. (Exhibit A). Petitioner confirmed applying for FIP on December 2, 2015, and further stated that she checked the box on a prior Redetermination indicating that she wanted FIP benefits. (Exhibit B). Petitioner further confirmed that in the 90 days prior to her hearing request, Petitioner was not an ongoing recipient of FIP benefits and did not submit an actual assistance application for FIP benefits prior to her hearing request.

Therefore, because the Department's Notice of Case Action to Petitioner was dated January 28, 2011, and Petitioner did not file a request for hearing to contest the Department's actions concerning her FIP case until November 9, 2015, Petitioner's hearing request was not timely filed within ninety days of the Notice of Case Action and is, therefore, **DISMISSED** for lack of jurisdiction. Petitioner was informed that if she disputes a subsequent denial of a FIP application submitted after her November 9, 2015, hearing request, she was entitled to request a hearing and have that issue resolved.

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

Eligible households may receive assistance with heat and electricity costs under the energy services program. ERM 301 (October 2015), p. 1. The Department can award payments toward heat and electricity up to the fiscal year cap if it will resolve the emergency. The amount of the payment is the minimum necessary to prevent shutoff or restore service. ERM 301, pp.2,10. The fiscal year cap for both heat and electricity services is \$850.00. ERM 301, pp.10-11.

SER helps to restore or prevent shut off of a utility service when service is necessary to prevent serious harm to SER group members. The Department can award payments toward water or sewage up to the fiscal year cap if it will resolve the emergency. The fiscal year cap for assistance with a water bill is \$175.00. ERM 302(October 2013), pp.1-4.

Prior to authorizing the department's portion of the cost of services, verification that the copayment, shortfall or contribution has been paid by the client is needed. ERM 302, pp. 2-4. The total copayment is the amount the SER group must pay toward their

emergency. ERM 208 (October 2015), pp. 1-2. Copayment amounts are deducted from the cost of resolving the emergency. ERM 208, pp. 1-2. Department policy provides that if the SER group meets all eligibility criteria but has an income or asset copayment, shortfall, and/or contribution, verification of payment must be received in the local office within the 30-day eligibility period or no SER payment will be made and the client must reapply. If another agency is making the payment, proof that payment will be made is required. ERM 301, pp. 5-6; ERM 103 (October 2015), p. 4; ERM 401 (October 2013), p. 2.

In this case, Petitioner requested assistance with her outstanding heat, electric and water bills. The Department presented documentation which indicate that Petitioner's heat, electric, and water bills had outstanding or past due balances of \$2364.86 (heat), \$1248.27 (electric) and \$738.75 (water). (Exhibit E). The Department testified that Petitioner's requests for assistance were approved up to the fiscal cap for each service. (Exhibit F). Thus, the Department acted in accordance with Department policy when it approved Petitioner's request for SER assistance with heat and electric in the amount of \$850 and water in the amount of \$175.

The Department further testified that it did not pay the approved \$850 towards Petitioner's request for assistance with heat and electricity and the \$175 towards Petitioner's request for assistance with water costs because it did not receive verification that Petitioner had made her required copayment or that she had a commitment from an outside agency to have her copayment made prior to the end of the 30 day application period, December 2, 2015. (Exhibit F). Petitioner confirmed that she did not provide the Department with proof of her commitment or that she made her required payment prior to December 2, 2015.

It was established that after requesting a hearing, Petitioner submitted subsequent applications for SER on or around December 3, 2015, December 29, 2015, and January 4, 2016, all of which were processed. The Department stated that it received a commitment from Petitioner indicating that an outside agency would make her required payment, however, this was not received until January 10, 2016, and appears to be in connection with subsequent SER applications.

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 processed Petitioner's SER application.

DECISION AND ORDER

Accordingly, Petitioner's hearing request with respect to FIP is **DISMISSED** the Department's SER decision is **AFFIRMED**.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/23/2016**

Date Mailed: **2/23/2016**

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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:

- 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

