

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

IN THE MATTER OF:



Reg. No.: 201334974
Issue No.: 1038, 2006
Case No.: [REDACTED]
Hearing Date: April 16, 2013
County: Macomb County DHS #12

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on April 16, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (PATH Case Manager).

ISSUES

Did the Department properly close Claimant's Medical Assistance (MA) case due to failure to comply with the verification requirements?

Did the Department properly determine Claimant's eligibility for Family Independence Program (FIP) benefits based on noncompliance with the Partnership Accountability Training Hope (PATH) 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. Claimant was active for MA.
2. On November 13, 2012, the Department mailed Claimant a Redetermination packet (DHS-1010) which was due by December 3, 2012.
3. On December 17, 2012, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed Claimant's MA-Low Income Families (LIF) case effective February 1, 2013 for failure to return the redetermination form.

4. On January 2, 2013, the Department mailed Claimant a PATH Appointment Notice (DHS-4785) which scheduled Claimant for an appointment on January 14, 2013 at 8:30a.m. at the Clinton Township MWSC.
5. On January 31, 2013, the Department mailed Claimant a Notice of Noncompliance (DHS-2444) which scheduled Claimant for a Triage appointment on February 7, 2013.
6. On February 7, 2013, Claimant did not attend the Triage appointment and the Department found that she had no good cause for her noncompliance.
7. On January 31, 2013, the Department mailed Claimant a Notice of Case Action (DHS-1605) which closed her FIP case effective March 1, 2013 due to noncompliance with the PATH program.
8. The Department received Claimant's request for a hearing challenging the closure of her MA and FIP cases on March 15, 2013.
9. This is Claimant's first noncompliance with the PATH program.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

Claimant requested a hearing concerning the Family Independence Program (FIP) and Medical Assistance (MA) program. Both issues will be addressed separately.

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

Effective January 1, 2013, as a condition of FIP eligibility, FIP applicants must attend the Partnership Accountability Training Hope (PATH) program (formerly the

JET program) and maintain 21 days' attendance. BEM 229. The program requirements, education and training opportunities, and assessments will be covered by PATH when a mandatory PATH participant is referred at application. BEM 229. In order for their FIP application to be approved, all FIP applicants must complete all of the following: (1) begin the application eligibility period (AEP) by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice; (2) complete PATH AEP requirements; (3) continue to participate in PATH after completion of the 21 day AEP. BEM 229. The Department will deny the FIP application if an applicant does not complete all of the above three components of the AEP. BEM 229.

JET participants will not be terminated from a JET program without first scheduling a "triage" meeting with the client to jointly discuss noncompliance and good cause. BEM 233A. The department coordinates the process to notify the MWA case manager of triage meetings including scheduling guidelines. BEM 233A. Clients must comply with triage requirement within the negative action period. BEM 233A.

The penalty for noncompliance without good cause is FIP closure. BEM 233A. Depending on the case situation, penalties include the following: (1) delay in eligibility at application; (2) ineligibility (denial or termination of FIP with no minimum penalty period); (3) case closure for a minimum of three months for the first episode of noncompliance, six months for the second episode of noncompliance and lifetime closure for the third episode of noncompliance. BEM 233A.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

Here, the Department contends that Claimant failed to appear for a mandatory PATH appointment on January 14, 2013 during the 21 day PATH application eligibility period (AEP). Claimant did not dispute that she failed to attend the PATH appointment on January 14, 2013, but she maintains that she had good cause. Claimant testified that her son was hospitalized and that she was enrolled in school at the time. Claimant provided medical records from the Detroit Medical Center (DMC) for an admission for her son for acute bronchitis due to RSV on January 23, 2013 through discharge on January 25, 2013.

This is essentially a credibility issue between the parties. This Administrative Law Judge finds that Claimant is not credible and has no good cause for failing to show up for PATH on January 14, 2013. The medical records dated January 23, 2013 do not

provide Claimant with good cause for failing to appear for PATH the previous week on **January 14, 2013**.

Accordingly, this Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, Claimant has failed to show good cause for failing to complete her attendance requirements during the AEP. As a result, the Department properly closed Claimant's FIP case for non-compliance.

Claimant's request for hearing in this matter also concerns a dispute about the Department's decision to close her MA case during redetermination. The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130. Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. BAM 130. Verifications are considered timely if received by the date they are due. BAM 130.

For MA, the client has 10 days to provide requested verifications (unless policy states otherwise). BAM 130. If the client cannot provide the verification despite a reasonable effort, the department worker may extend the time limit up to three times. BAM 130. Should the client indicate a refusal to provide a verification or, conversely, if the time period given has elapsed and the client has not made a reasonable effort to provide it, the department may send the client a negative action notice. BAM 130.

The Department must periodically redetermine an individual's eligibility for active programs. BAM 210. The redetermination process includes thorough review of all eligibility factors. BAM 210. Redetermination, semi-annual and mid-certification forms are often used to redetermine eligibility of active programs. BAM 210. A complete redetermination is required at least every 12 months. BAM 210. However, the client must complete a DHS-1171, Assistance Application, to request a program that is not active at the time of redetermination. BAM 210. Local offices must assist clients who need and request help to complete applications, forms and obtain verifications; see BAM 130, Obtaining Verification. BAM 210.

Bridges generates a redetermination packet to the client 3 (three) days prior to the negative action cut-off date in the month before the redetermination is due. BAM 210. For all programs, a redetermination/review packet is considered complete when **all** of the sections of the redetermination form including the signature section are completed. BAM 210.

In order to receive uninterrupted benefits, (benefits available on their scheduled issuance date) the client must file the redetermination through MI Bridges or file either a

DHS-1010, Redetermination, DHS- 171, Assistance Application, or a DHS-2063B, Continuing Food Assistance Benefits, by the 15th of the redetermination month. BAM 210.

For MA, verifications are due the same date as the redetermination/review interview. BAM 210. When an interview is not required, verifications are due the date the packet is due. BAM 210.

Here, the Department argues that Claimant failed to return the redetermination packet which was due by December 3, 2012. Claimant, on the other hand, contends that she lost her copy of the redetermination packet and that she called her caseworker before the due date requesting an additional copy.

This Administrative Law Judge finds that Claimant's statements are not credible. Claimant has failed to make a reasonable effort to provide all requested verification(s) within the required time period. The evidence shows that Claimant has failed to provide the redetermination packet to the Department.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department properly closed Claimant's MA case for failure to provide requested verifications and/or redetermination forms.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly closed Claimant's FIP case for noncompliance with WF/JET requirements and the 3 (three) month sanction is **AFFIRMED**.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did act properly when it closed Claimant's MA case for failure to return the redetermination packet.

Accordingly, the Department's MA decision is **AFFIRMED**.

IT IS SO ORDERED.

/s/ _____
C. Adam Purnell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: April 22, 2013

Date Mailed: April 23, 2013

NOTICE: 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)

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 was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

201334974/CAP

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

CAP/aca

cc:

