

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201341281

Issue No: 1005

Case No: [REDACTED]

Hearing Date: May 16, 2013

Berrien County DHS (22)

ADMINISTRATIVE LAW JUDGE: Suzanne D. Sonneborn

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on April 11, 2013. After due notice, a telephone hearing was held on May 16, 2013. Claimant appeared and provided testimony. The department was represented by [REDACTED], a family independence manager, and [REDACTED], an eligibility specialist, both with the department's Berrien County office.

ISSUE

Whether the department properly closed Claimant's Food Independence Program (FIP) benefits for her failure to timely provide the requested medical verifications?

FINDINGS OF FACT

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

1. At all times relevant to this hearing, Claimant was a recipient of FIP benefits.
2. On January 29, 2013, Administrative Law Judge Christopher Saunders issued a Hearing Decision reversing the department's prior closure of Claimant's FIP benefits because the department improperly failed to defer Claimant from participation in the WF/JET program and submit Claimant's file to the Medical Review Team for a determination. ALJ Saunders therefore ordered the department to refer Claimant to the MRT for a determination of Claimant's alleged disability and defer Claimant from

participation in the WF/JET program pending this determination. (Department Exhibit 1)

3. On February 8, 2013, the department mailed Claimant a Medical Determination Verification Checklist, requiring Claimant to complete two of the enclosed medical verification forms and to have her physician complete four of the enclosed medical verification forms by February 19, 2013 in order that the department may determine her eligibility for deferral from the JET program. (Department Exhibit 2)
4. On February 19, 2013, Claimant submitted a written request to extend the February 19, 2013 verification deadline and, therein, Claimant advised the department that she did not have an appointment with her physician until February 27, 2013 for completion of the paperwork. (Department Exhibit 3)
5. On February 19, 2013, the department mailed Claimant correspondence advising her that, in order to determine her continued deferment from the WF program, she must provide the department with her completed Medical Social Questionnaire (DHS-49F) and Activities of Daily Living (DHS-49G), and that her physician must complete the Medical Examination Report (DHS-49), Authorization to Release Medical Information (DHS-1555E), and Psychiatric/Psychological Examination Report (DHS-49D). The department further advised Claimant that the February 19, 2013 deadline for these required medical verifications would be extended until March 1, 2013. The department further advised Claimant that if she did not return the information by the due date or otherwise call for an extension, her FIP benefits case would close. (Department Exhibit 4)
6. Claimant did not submit the required medical verifications by the March 1, 2013 deadline or request an extension of the deadline.
7. On March 27, 2013, the department mailed Claimant a Notice of Case Action informing her that her FIP benefits would be closed effective May 1, 2013 due to her failure to verify or allow the department to verify information necessary to determine her eligibility for the FIP program. (Department Exhibit 5)
8. On April 10, 2013, Claimant submitted a hearing request protesting the department's closure of her FIP case. (Department Exhibit 6)
9. On May 2, 2013, the department received a facsimile request from Claimant's physician, [REDACTED], wherein [REDACTED] requested that the department provide a payment voucher FIA-93 form for his completion of form FIA-49. He further advised the department that he

still required Claimant's signed Authorization to Release Medical Information (DHS-1555E). (Department Exhibit 7)

CONCLUSIONS OF LAW

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 of that decision. BAM 600. 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).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, et seq. The Department administers the FIP program pursuant to MCL 400.10, et seq., and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Department policy states that clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. Clients who are able but refuse to provide necessary information or take a required action are subject to penalties. Clients must take actions within their ability to obtain verifications and the department must assist clients when necessary. BAM 105.

The department tells the client what verification is required, how to obtain it, and the due date through the use of the DHS-3503, Verification Checklist, or for MA redeterminations, the DHS-1175, MA Determination Notice, to request verification. BAM 130. The local office must assist clients who ask for help in completing forms (including the DCH-0733-D) or gathering verifications. Particular sensitivity must be shown to clients who are illiterate, disabled or not fluent in English. BAM 105. Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130.

In this case, on January 29, 2013, the department was ordered to refer Claimant to the Medical Review Team for a determination of Claimant's alleged disability and defer Claimant from participation in the WF/JET program pending this determination. Thereafter, on February 8, 2013, the department mailed Claimant a Medical Determination Verification Checklist, requiring Claimant to complete two of the enclosed medical verification forms and to have her physician complete four of the enclosed medical verification forms by February 19, 2013 in order that the department may determine her eligibility for deferral from the JET program. On February 19, 2013, the department granted Claimant an extension of this deadline and, in doing so, advised

Claimant that, in order to determine her continued deferment from the WF program, she must provide the department with her completed Medical Social Questionnaire (DHS-49F) and Activities of Daily Living (DHS-49G), and that her physician must complete the Medical Examination Report (DHS-49), Authorization to Release Medical Information (DHS-1555E), and Psychiatric/Psychological Examination Report (DHS-49D). The department further advised Claimant that the February 19, 2013 deadline for these required medical verifications would be extended until March 1, 2013. The department further advised Claimant that if she did not return the information by the due date or otherwise call for an extension, her FIP benefits case would close. After Claimant failed to submit the required medical verifications by the March 1, 2013 deadline or otherwise request an extension of the deadline, the department mailed Claimant a Notice of Case Action on March 27, 2013 informing her that her FIP benefits would be closed effective May 1, 2013 due to her failure to verify or allow the department to verify information necessary to determine her eligibility for the FIP program.

At the May 16, 2013 hearing, Claimant testified that she did not submit the required medical verifications by the March 1, 2013 deadline because she was unable to complete all of the testing and assessments required by the physician by this date in order that he could then complete the needed medical forms. Claimant further testified that she called her caseworker on February 28, 2013 and left Ms. [REDACTED] a voicemail advising her that she needed an extension because she was still unable to obtain the required paperwork. Claimant further testified that Ms. [REDACTED] did not return her call.

The department's representative and supervisor to Claimant's caseworker, [REDACTED], testified that, regardless of whether Ms. [REDACTED] returned Claimant's call (Ms. [REDACTED] testified that she did not recall receiving Claimant's voicemail on February 28, 2013), it is undisputed that the department did not take action to close Claimant's FIP benefits until March 27, 2013, which action would not have officially closed Claimant's FIP benefits until April 9, 2013 – and that, as of April 9, 2013, Claimant still had not submitted any of the required six medical verification forms, including the two forms that required only her completion and not that of her physician. Ms. [REDACTED] further testified that the first communication from Claimant's physician to the department was not until May 2, 2013 when [REDACTED] faxed a request to the department, seeking a payment voucher FIA-93 form for his completion of the Medical Examination Report (DHS-49). He further advised the department that he still required Claimant's signed Authorization to Release Medical Information (DHS-1555E).

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). Moreover, 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).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record and finds that based on the competent, material, and substantial evidence presented during the hearing, the department acted in accordance with policy in closing Claimant's FIP benefits effective May 1, 2013 due to her failure to verify or allow the department to verify information necessary to determine her eligibility for the FIP program.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in closing Claimant's FIP benefits effective May 1, 2013 due to her failure to verify or allow the department to verify information necessary to determine her eligibility for the FIP program. The department's actions are therefore **UPHELD**.

It is SO ORDERED.

/s/ _____
Suzanne D. Sonneborn
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: May 22, 2013

Date Mailed: May 22, 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.

The Claimant may appeal this 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 errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;

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- The failure of the ALJ to address other relevant issues in the hearing decision.

A request for a rehearing or reconsideration must be submitted through the local DHS office or directly to MAHS by mail at:

Michigan Administrative Hearings System
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, MI 48909-07322

SDS/aca

cc:

