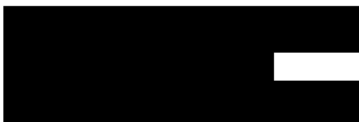


STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

**IN THE MATTER OF:**



Reg. No.: 201346708  
Issue No.: 1038  
Case No.: [REDACTED]  
Hearing Date: June 13, 2013  
County: Macomb (20)

**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 June 13, 2013 from Lansing, Michigan. Claimant personally appeared and provided testimony. Participants on behalf of Department of Human Services (Department) included [REDACTED] (P.A.T.H. Caseworker) and [REDACTED] (P.A.T.H. Liason-Michigan Works).

**ISSUE**

Whether the Department properly closed Claimant's Family Independence Program (FIP) benefits due to Claimant's 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 a FIP recipient and a mandatory PATH participant.
2. On May 10, 2013, the Department received Claimant's request for hearing concerning the "M.W." 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 Family Independence Program (FIP), also referred to as “cash assistance,” 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.

Here, Claimant requested an administrative hearing regarding the “MW” (Michigan Works) program. This can be fairly interpreted as a hearing request concerning the Family Independence Program (FIP) involving the Partnership Training Hope and Accountability (PATH) program.

When the Department presents a case for an administrative hearing, policy allows the Department to use the hearing summary as a guide when presenting the evidence, witnesses and exhibits that support the Department’s position. See BAM 600, page 28. But BAM 600 also requires the Department to **always** include the following in planning the case presentation: (1) an explanation of the action(s) taken; (2) a summary of the policy or laws used to determine that the action taken was correct; (3) any clarifications by central office staff of the policy or laws used; (4) the facts which led to the conclusion that the policy is relevant to the disputed case action; (5) the DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights. See BAM 600 at page 28. This implies that the Department has the initial burden of going forward with evidence during an administrative hearing.

Placing the burden of proof on the Department is a question of policy and fairness and is also supported by Michigan law. In *McKinstry v Valley Obstetrics-Gynecology Clinic, PC*, 428 Mich 167; 405 NW2d 88 (1987), the Michigan Supreme Court, citing *Kar v Hogan*, 399 Mich 529; 251 NW2d 77 (1979), said:

The term “burden of proof” encompasses two separate meanings. 9 Wigmore, *Evidence* (Chadbourn rev), § 2483 *et seq.*, pp 276 ff.; McCormick, *Evidence* (3d ed), § 336, p 946. One of these meanings is the burden of persuasion or the risk of nonpersuasion.

The Supreme Court then added:

The burden of producing evidence on an issue means the liability to an adverse ruling (generally a finding or a directed verdict) if evidence on the issue has not been produced. It is usually cast first upon the party who has pleaded the existence of the fact, but as we shall see, the burden may shift to the adversary when the pleader has his initial duty. The burden of producing evidence is a critical mechanism in a jury trial, as it empowers the judge to decide the case without jury consideration when a party fails to sustain the burden.

The burden of persuasion becomes a crucial factor only if the parties have sustained their burdens of producing evidence and only when all of the evidence has been introduced. See *McKinstry*, 428 Mich at 93-94, quoting McCormick, Evidence (3d ed), § 336, p 947.

In other words, the burden of producing evidence (i.e., going forward with evidence) involves a party's duty to introduce enough evidence to allow the trier of fact to render a reasonable and informed decision. Thus, the Department must provide sufficient evidence to enable the Administrative Law Judge to ascertain whether the Department followed policy in a particular circumstance.

In the instant matter, the Department was confronted with a hearing request concerning the closure of Claimant's FIP benefits involving the PATH program. In preparation for this hearing, the Department included the following in the hearing packet: Hearing Summary (DHS-3050),<sup>1</sup> Request for Hearing, and Update/View Case Notes (4 pages). The Department's hearing packet did not include any other documents including: the Notice of Noncompliance (DHS-2444), a Notice of Case Action (DHS-1605) or documents which clearly indicated whether this was Claimant's first, second or third noncompliance with the PATH program.

Here, the Department failed to include all necessary and relevant documents in order to establish that Claimant was noncompliant with PATH without good cause. Without these important documents, the Administrative Law Judge is unable to evaluate whether the Department accurately determined that Claimant was noncompliant, was properly provided with a Triage, and was properly notified of the Department's decision to close her FIP case. Accordingly, this Administrative Law Judge finds that the Department has failed to carry its burden of proof and did not provide the information necessary to enable this ALJ to determine whether the Department followed policy as required under BAM 600.

### **DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department acted improperly because the Department failed to include the necessary and relevant documentation in the hearing relating to Claimant's hearing request. Thus, the Department is **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

- Initiate steps to re-engage Claimant with the PATH program.
- Only to the extent required by policy, the Department shall provide Claimant with retroactive and/or supplemental FIP benefits.

---

<sup>1</sup> The DHS-3050 indicated as follows: "This Hearing request is for the Path Case worker: See Attached (Triage was held on May 9, 2013.)" [sic]

IT IS SO ORDERED.

/s/

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

Date Signed: June 14, 2013

Date Mailed: June 14, 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 the Decision and Order to Circuit Court within 30 days of the mailing 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

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:

