

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2013 67785
Issue No.: 1038;
Case No.: ██████████
Hearing Date: November 4, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Claimant'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. After due notice, an in person hearing was held on November 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant, and ██████████ the Claimant's spouse. ██████████ served as an interpreter. Participants on behalf of the Department of Human Services (Department) included ██████████ FIS.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case (cash assistance) based on Claimant's wife, ██████████ failure to participate in employment-related activities without good cause?

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 an ongoing recipient of FIP benefits.
2. On July 18, 2013 the Medical Review Team (MRT) completed its review of Claimant's medical documents in connection with Claimant's request for a deferral from participation in the PATH program and concluded that Claimant was not disabled and was work-ready with limitations and was capable of participation in the Path program.

3. On July 23, 2013, the Department sent Claimant a Path Participation Program Appointment Notice requiring that she attend the orientation on July 30, 2013.
4. On July 30, 2013, Claimant went to the Path program and was sent home due to her condition. Claimant [REDACTED] used a walker at the hearing.
5. On August 20, 2013, the Department sent Claimant a Notice of Noncompliance notifying her of her noncompliance with Path activities and scheduling a triage on August 26, 2013. Exhibit 3
6. The Claimant attended a doctor's appointment on August 26, 2013 and did not attend the triage. The triage was not rescheduled. At the triage, the Department found that there was no good cause for [REDACTED] failure to attend the Path program.
7. On August 20, 2013 the Department issued a Notice of Case Action closing the Claimant's FIP (cash assistance) and Food Assistance benefits effective October 1, 2013 through December 31, 2013 for failure to participate in employment-related activities and imposed a 3 month sanction. Exhibit 4
8. The Claimant presented additional medical evidence at the hearing based upon her doctor's appointment which she attended on August 26, 2013. Exhibit A
9. On July 18, 2013, Claimant filed a hearing request disputing the Department's actions concerning the closure of his FIP and FAP case due to noncompliance with the Path Program by [REDACTED], his spouse.

CONCLUSIONS OF LAW

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

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal

Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3001 through R 400.3015.

Additionally, the issue to be determined is whether the Department properly closed Claimant's FIP cash assistance and Food Assistance case, applied a three-month sanction to the case for failure to participate in employment related activities without good cause by [REDACTED].

At the hearing, the Department established that, after MRT found that Claimant was not disabled and could participate in the PATH program with accommodations and limitations. Claimant was sent to a PATH orientation. The Claimant credibly testified that she did report and attempted to attend but was sent away by the Path Program due to her medical condition. At the hearing the Claimant used a walker to ambulate. The Department conducted a triage even though the Claimant could not attend as she had a doctor's appointment. The Department did not consider adjourning the triage and found no good cause because no new evidence was presented.

Apparently the Claimant was found work-ready with limitations including no lifting over 10 pounds and can stand or walk at least 2 hours out of an 8 hour day and can sit for 6 hours out of an 8 hour workday. The actual MRT decision was not presented at the hearing. However, the Claimant was attending a doctor's appointment the day of the triage and could not attend the triage. Additionally, the medical record of her doctor's appointment that day noted she was in active physical therapy and had a follow up evaluation. Claimant Exhibit A. The notes indicate that the Patient used a walker to ambulate and noted x-rays with a closed lumbar fracture. The report notes that if after 4 weeks of physical therapy symptoms persist, surgery will be considered.

Based upon the medical documentation submitted at the hearing, noting the requirement of physical therapy ongoing and the Claimant's credible testimony that she did attend the program but was sent home, and lastly that the Department conducted a triage under the circumstances where the Claimant was at the doctor, it is determined that the Department's finding that no good cause existed was in error and the triage should have been rescheduled. Further, it could not be determined whether the Claimant's medical evidence presented at the hearing was new evidence. It is determined that the Department must process a further deferral of the Claimant's case to the MRT in light of the ongoing physical therapy.

Based upon the forgoing, it is determined that the Department did not act in accordance with Department policy when it found no good cause for Claimant's noncompliance and subsequently closed Claimant's FIP and Food Assistance case under these circumstances. BEM 230A (January 1, 2013), p 13; BEM 233A (January 1, 2013), pp. 3-5.

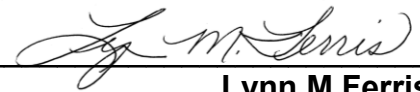
DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department

did not act properly when it closed Claimant's FIP cash assistance and Food Assistance case, applied a 3 month sanction to the FIP case.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record and above.

1. The Department shall initiate reinstatement of the Claimant's FIP and FAP cases retroactive to October 1, 2013 and remove the sanction it imposed as a result of the triage held on August 26, 2013.
2. The Department shall issue a FIP and FAP supplement to the Claimant for any benefits the Claimant was otherwise entitled to receive in accordance with Department policy.
3. The Department shall remove for the Department's records and the Claimant's case record, the previously imposed first sanction it imposed on the Claimant as a result of the triage in this case
4. The Department shall process a deferral from the Path Program on behalf of the Claimant and shall include any new medical records provided by the claimant, including completion of a DHS 49 by her treating doctors and a DHS 49 D and E to assess the Claimant's mental impairments by her treating doctor.



Lynn M Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 12, 2013

Date Mailed: November 12, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]