

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

IN THE MATTER OF:



Reg. No.: 2014-6449
Issue No.: 1038; 3029
Case No.: [REDACTED]
Hearing Date: November 19, 2013
County: Alpena-Alcona

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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, a telephone hearing was held on November 19, 2013, from Lansing, Michigan. Participants on behalf of Claimant included Susan Moore. Participants on behalf of the Department of Human Services (Department) included Family Independence Specialist (FIS) [REDACTED].

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

Did the Department properly deny Claimant's application sanction Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

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 received: FIP FAP MA AMP SDA CDC DSS SSP benefits.
2. The Claimant has been an ongoing recipient of FAP since January 2010 and she was never required to participate in employment related activities. The Claimant was deferred, though her case was never reviewed by the Department's Medical Review Team (MRT). On June 24, 2013, the Claimant's medical packet was sent to MRT and on August 20, 2013, the local office received the MRT decision indicating that the Claimant could work with limitations.
3. On September 12, 2013, the Claimant's case was updated and her FIS sent her a DHS-4785, PATH Appointment Notice setting an appointment for the Claimant on September 24, 2013. The FIS also sent the Claimant a DHS-100, Quick Note explaining that the Claimant was now required to participate with PATH to continue to be eligible to receive FIP assistance.
4. On September 27, 2013, the Claimant telephoned her FIS to report that she would not be attending PATH.
5. On October 1, 2013, a DHS-2444, Notice of Non-compliance was sent to the Claimant, setting a good cause appointment for October 10, 2013 at 9:00 a.m. At this appointment, the Claimant was given a choice to be re-referred to PATH and have good cause granted for her non-compliance, or she could file for a hearing if she felt she could not participate in employment related activities and no good cause would be granted for her non-compliance. No good cause was granted.
6. On October 15, 2013, the Department closed Claimant's FIP case due to non-compliance with employment related activities.
7. On November 1, 2013, the Department sanctioned Claimant's FAP case due to non-compliance with employment related activities.
8. On October 1, 2013, the Department sent Claimant its decision.
9. On October 10, 2013, Claimant filed a hearing request, protesting the Department's actions.

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 program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

In this case, the Claimant testified that she disagreed with the MRT's determination that she can work with limitations. The Claimant testified that she disagreed even with the limitations set for her by the MRT. The Claimant was informed that there is no provision in departmental policy which allows for the Administrative Law Judge to revisit a determination of the MRT.

Bridges Eligibility Manual (BEM) 230A (2013) p. 14, provides that Claimants determined as work ready with limitations are required to participate in PATH as defined by MRT. BEM 230A (2013) p. 17, provides that when a Claimant determined by MRT to be work ready with limitations becomes noncompliant with PATH the Claimant's worker is to follow instructions outlined in BEM 233A. BEM 233A (2013) p. 3, provides that, stating orally or in writing a definite intent not to comply with program requirements constitutes non-compliance. It is not contested in this case that the Claimant telephoned her FIS and stated that she would not be attending PATH. As such, the Administrative Law Judge concludes that the Department properly determined that the Claimant was non-compliance with employment related activities.

During the hearing, the FIS was questioned as to why it was that the Claimant would or would not be granted good cause based upon her choice to pursue a hearing. The FIS clarified that it was not a choice about requesting the hearing. The Claimant was offered a choice of whether or not she felt she could participate in employment related activities. The FIS testified that she believed that the Claimant was confused about the process and the FIS wanted to ensure that the Claimant knew the consequences of not participating in PATH, before she chose not to participate. The Claimant's hearing request does refer to her "mental defects," and as such, the Administrative Law Judge determines that this choice was properly put before the Claimant.

BEM 233A (2013), pp. 8, 9, provides that the DHS-2444, Notice of Non-compliance state the date/dates of the Claimant's non-compliance and the reason why the Claimant was determined to be non-compliant. In this case, the DHS-2444, Notice of non-compliance, sent October 1, 2013, gives the Claimant notice that she was non-compliant on September 29, 2013 because of "no initial contact with MWA." That notice scheduled a triage meeting for October 10, 2013, which the Claimant did attend. The Administrative Law Judge concludes that the Department properly determined that the Claimant had no good cause for her non-compliance. BEM 233A (2013) p. 6, provides that the penalty for noncompliance without good cause is FIP case closure. The Administrative Law Judge therefore concludes that when the Department took action to close the Claimant's FIP case, the Department was acting in accordance with its policy.

The Administrative Law Judge, based upon 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 took action to close the Claimant's FIP case and sanction the Claimant's FAP case.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

/s/ _____
Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 11/20/13

Date Mailed: 11/21/13

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.

2014-6446/SEH

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

SEH/tb

cc:

