

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

IN THE MATTER OF:

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

Reg. No.: 2014 12963
Issue No.: 3001
Case No.: ██████████
Hearing Date: December 12, 2013
County: Wayne (15)

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, a telephone hearing was held on December 12, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. 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 for 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 and was assigned on several occasions to attend the PATH program.
2. The Claimant was assigned to attend PATH Orientation on September 9, 2013 and August 12, 2013. The Claimant did not attend the orientation program.
3. The Claimant was also given notice to attend triages on August 27, 2013 and October 11, 2013. The Claimant did attend the October triage.

4. The Claimant had problems with her mail delivery and went to the post office to resolve the problems.
5. The Department issued a Notice of Case Action on October 5, 2013 closing her FIP cash assistance effective November 1, 2013 and imposing a 3 month sanction for failure to participate in the PATH program. Exhibit 7
6. All Notices were sent to the Claimant at [REDACTED] the address where the Claimant resided.
7. The Department held a triage on October 11, 2013 and found no good cause for the failure of the Claimant to correct her mail delivery.
8. On November 12, 2013, Claimant filed a hearing request disputing the Department's actions concerning the closure of his FIP case (cash assistance) due to noncompliance with the PATH Program.

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.

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

The Claimant did not attend any of the orientations she was assigned to because she did not receive the notices. The Claimant did attend the last triage and advised the Department that she did comply with a previous triage result when she was given good cause for mail non receipt. At the first triage the Claimant agreed to go to the post office and resolve the mail delivery problems she was experiencing. The Claimant advised the Department at the second triage that she had been to the post office and had also spoken with her mail carrier. The Claimant also checked with the post office in [REDACTED] where she had previously lived to make sure all mail was forwarded. None of these efforts were successful. The Claimant now lives in a shelter and receives all her mail.

At the hearing, the Claimant credibly testified that she had been to her post office and described where it was located and the first name of the person she had spoken to regarding her mail delivery problems. Based upon this testimony it is determined that the Claimant did demonstrate good cause for failure to attend PATH orientation due to failure to receive the PATH Notices. The Claimant now resides in a shelter and she is receiving all her mail.

While the law in Michigan provides that the proper mailing and addressing of a letter creates a presumption of receipt. That presumption may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case the Claimant has provided credible testimony that supported her contention that she did not receive the notices and has been to the post office in Detroit and Flint to resolve the problem and therefore has rebutted the presumption of receipt of the Notices sent to her.

In addition, after listening to all the testimony it is determined that the Department improperly determined that the Claimant did not have good cause based upon the evidence it reviewed at the triage as the Claimant had taken the steps required of her to receive her mail and to consult the post office, and ultimately, the failure to receive the mail was a condition not within her control as the post office did not correct the problem. BEM 233A pp. 6, (January 1, 2013).

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

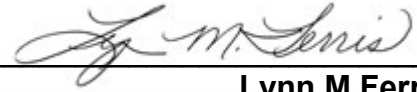
Did not act properly when it closed Claimant's FIP case, applied a sanction to the FIP case closing it for 3 months due to noncompliance with work participation requirements without good cause.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall reinstate the Claimant's FIP case and process the case accordingly, including removing the 3 month sanction imposed by the Department for failure to show good cause at the triage for the Department records.

2. The Department shall issue a FIP supplement for any FIP benefits the Claimant was otherwise entitled to receive in accordance with Department Policy.



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

Date Signed: December 19, 2013

Date Mailed: December 19, 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]