

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-53682
Issue No: 1038
[REDACTED]
Hearing Date: August 13, 2013
Calhoun County DHS

ADMINISTRATIVE LAW JUDGE: COREY A. ARENDT

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 August 13, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly terminate and sanction the Claimant's Family Independence Program (FIP) benefits for noncompliance with PATH requirements?

FINDINGS OF FACT

I find as material fact based upon the competent, material and substantial evidence on the whole record:

1. On May 2, 2012, the Claimant was sanctioned by the Department for noncompliance.
2. On or around April 2, 2013, the Claimant sought a medical deferral from the PATH program.
3. On May 3, 2013, the Medical Review Team (MRT) returned documentation to the Department indicating the Claimant was able to participate in PATH with limitations.
4. On May 23, 2013, the Department sent the Claimant a PATH appointment notice. The notice indicated an orientation date of June 3, 2013.
5. As of June 3, 2013, the Claimant had not attended the PATH orientation.
6. On June 11, 2013, the Department sent the Claimant a notice of noncompliance and notice of case action. The notice of noncompliance indicated a triage was to

take place on June 19, 2013. The notice of case action indicated the Claimant's FIP benefits were closing as a result of the Claimant being noncompliant with the PATH program.

7. On June 19, 2013, a triage took place. During the triage, the Claimant did not provide any new medical evidence or indicate any new disabling conditions that prevented her from participating in the PATH program.
8. On June 19, 2013, the Claimant requested a hearing to protest the FIP closure and FAP reduction.

CONCLUSIONS OF LAW

The 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) and the Program Reference Manual (PRM).

The goal of the FIP penalty policy is to obtain client compliance with appropriate work and/or self-sufficiency-related assignments and to ensure that barriers to such compliance have been identified and removed. The goal is to bring the client into compliance.

A Work Eligible Individual (WEI); see BEM 228; who fails, without good cause, to participate in employment or self-sufficiency-related activities, must be penalized.

Clients who are disabled are temporarily deferred from employment-related activities. The Department is to defer persons incapacitated due to injury, physical illness or mental illness. They must verify a reason for deferral only if it is not obvious and the information provided is questionable (unclear, inconsistent or incomplete). BEM 230B.

The client is responsible for providing evidence needed to prove disability or blindness. However, the Department must assist the customer when they need help obtaining it. Such help includes the following:

- Scheduling medical exam appointments
- Paying for medical evidence and medical transportation

The FIS must assign and maintain FSSP activities to ensure continued pursuit of self-sufficiency while gathering verification or assisting clients with obtaining medical verification or testing. If testing assistance is necessary; see BEM 232, Medical Exams, Immunizations and Tests for instructions.

If new medical evidence is not provided, do not send the case back to the Medical Review Team. The previous Medical Review Team decision stands.

Testimony and other evidence must be weighed and considered according to its reasonableness.¹ Moreover, the weight and credibility of this evidence is generally for the fact-finder to determine.² In evaluating the credibility and weight to be given to the testimony of a witness, the fact-finder may consider the demeanor of the witness, the reasonableness of the witness's testimony, and the interest, if any, the witness may have in the outcome of the matter.³

Based upon the testimony provided, I find that more likely than not, the Claimant did not submit new medical evidence at the triage and did not allege new additional conditions that prevented her from participating in the PATH program. For this reason, I find the Department acted accordingly when they closed and sanctioned the Claimant's FIP case.

Accordingly, I find the Department's actions should be **AFFIRMED**.

DECISION AND ORDER

I find, based upon the above findings of fact and conclusions of law, decide that:

1. The Department properly closed and sanctioned the Claimant's FIP benefits for noncompliance with PATH requirements.

Accordingly, the Department's actions are **AFFIRMED**.



Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 15, 2013

Date Mailed: August 15, 2013

NOTICE OF APPEAL: 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).

¹ *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).

² *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997).

³ *People v Wade*, 303 Mich 303 (1942), *cert den*, 318 US 783 (1943).

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.

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

CAA/las

cc:

