

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-20402
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 20, 2014
County: Kent

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 February 20, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED], and her Attorney and Authorized Hearing Representative (AHR) [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Manager, [REDACTED]; Family Independence Specialist, [REDACTED]; PATH Coordinator, [REDACTED].

ISSUE

Did the Department properly 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)? |

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 benefits.
2. On January 1, 2014, the Department closed Claimant's case due to non-compliance with employment related activities.
3. On December 19, 2013, the Department sent Claimant its decision.

4. On December 27, 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.

Additionally, 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 client 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. 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 for PATH purposes.

The Claimant also testified that she did attempt to attend her PATH appointment on December 9, 2013, but she had to walk in the snow and she was late and was therefore turned away. The Department testified that the Claimant was 45 minutes late for her appointment and latecomers are routinely turned away because at the beginning of the orientation the Claimant is told what is expected of her and provided with written materials also indicating what is expected of her. It is not contested that the Claimant was not at her PATH appointment on December 9, 2013 at 9:00 AM.

Bridges Eligibility Manual (BEM) 233A (2013), pp. 10, 11, provide 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 December 19, 2013, gives the Claimant notice that she was noncompliant by December 17, 2013, because she had no initial contact with MWA. That notice scheduled a triage meeting for December 26, 2013 at 2:00 PM. The Claimant did not attend the triage. In her absence, the Department determined that she had no good cause for her noncompliance.

The Claimant further testified that she did not receive the DHS-2444, Notice of Noncompliance in time for the triage appointment, and that she believes that she received it on December 26, 2013 or. The document indicates that it was sent to the Claimant on December 19, 2013, scheduling the triage appointment for December 26, 2013. The Administrative Law Judge consulted the calendar for December 2013 and it reveals that there were six mailing days from the time the notice was sent from Lansing to the time the triage was scheduled. The Department testified that they had other Claimants arrive for triage appointments on that day who had also been mailed a DHS-2444, Notice of Noncompliance on December 19, 2013. The Claimant asserted that she telephoned the her caseworker to alert the worker that she had not received the notice of the triage appointment until after the appointment was over, but she received a voicemail indicating that her caseworker was out of the office until January 2014. The Claimant testified that she did leave her caseworker a voicemail informing her caseworker that she did not get notice of the triage appointment until after it was over. The Department testified that no voicemail was received from the Claimant, and

furthermore, the Department's voicemail instructed Claimants to call another number to speak with an on-call worker. The Department testified that the on-call worker would then make a notation on the Claimant's case. The Department testified that there were no notations on the Claimant's case.

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). As the Claimant's address has remained [REDACTED] at all times relevant to this matter, as other Claimants arrived timely for their triage is on December 26, 2014 and as the Claimant received every other piece of mail from the Department in the record, the Administrative Law Judge concludes the evidence is insufficient to rebut the presumption that the Claimant also received her DHS-2444, Notice of Noncompliance in a timely manner.

Bridges Eligibility Manual (BEM) 233A (2013) p. 8, 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.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: 2/28/14

Date Mailed: 2/28/14

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

SEH/tb

cc:

