

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-23784
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: February 20, 2014
County: Oscoda

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] [REDACTED] and her [REDACTED] [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Specialist and Case Manager, [REDACTED] and Michigan Works Case Manager, [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 February 1, 2014, the Department closed Claimant's case due to non-compliance with employment related activities.
3. On January 16, 2014, the Department sent Claimant its decision.

4. On January 24, 2014, 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.

Procedural History: On February 18, 2014, the Michigan Administrative Hearing System received the Claimant's request for an adjournment of the hearing scheduled for February 20, 2014. On February 19, 2014, Supervising Administrative Law Judge [REDACTED] issued an Order Denying Request for Adjournment.

In this case, on October 30, 2013, the Medical Review Team (MRT) determined that the Claimant is able to participate in employment related activities with limitations. It remains unclear to this Administrative Law Judge exactly what the incident of non-compliance was. Clearly, the Claimant was referred to the PATH program twice, but the case notes in evidence indicate that she was attending, though sporadically. The Department's hearing summary indicates that the Claimant is protesting the MRT denial of her request for deferral from employment related activities.

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 client determined by MRT to be work ready with limitations becomes non-compliant with PATH the Claimant's worker is to follow instructions outlined in BEM 233A.

Bridges Eligibility Manual (BEM) 233A (2012), pp. 8, 9, 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, there is no DHS-2444, Notice of non-compliance in evidence. As such, the Administrative Law Judge cannot determine whether or not the Department properly concluded that the Claimant had no good cause for her non-compliance. This is because the evidence does not indicate what day or dates the Claimant was non-compliant. To determine whether or not the Claimant had good cause for her non-compliance, it is necessary for this Administrative Law Judge to know the dates of her non-compliance and the actions or failure to act that constitutes the non-compliance. Because the record does not contain the requisite DHS-2444, Notice of Non-compliance, the evidence is insufficient to establish that the Department was acting in accordance with its policy when taking action to close the Claimant's FIP case.

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 failed to satisfy its burden of showing that it 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 **REVERSED**.

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. Initiate action to reinstate the Claimant's FIP case back to the closure date, and
2. Initiate action to issue the Claimant any supplement she may thereafter be due.



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

Date Signed: 2/26/14

Date Mailed: 2/27/14

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:

