

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

IN THE MATTER OF:



Reg. No.: 2014-5824
Issue No(s): 1008, 5000
Case No.: [REDACTED]
Hearing Date: January 28, 2014
County: Macomb County DHS #20

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 January 28, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Family Independence Specialist.

ISSUES

1. Did the Department properly close the Claimant's Family Independence Program (FIP) benefits case due to non-cooperation with child support requirements?
2. Did the Department properly deny the Claimant's September 6, 2013 FIP application based on failure to attend the in Partnership Accountability Training Hope (PATH) program orientation?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant began receiving FIP on August 1, 2012, and was deferred from the PATH program while her claim that she was unable to work because of a disability was evaluated.
2. On July 12, 2013, the Department's Medical Review Team (MRT) determined that the Claimant was work ready with limitations.

3. On July 17, 2013, a PATH Appointment Notice was issued to the Claimant for a July 29, 2013 appointment and noted that PATH must be attended within 15 days of this notice.
4. On July 24, 2013, the Claimant submitted a doctor's note dated March 15, 2013 stating the Claimant was totally disabled.
5. On August 3, 2013, a Notice of Case Action was issued to the Claimant stating, in part, the FIP case would close effective September 1, 2013 due to non-cooperation with child support requirements.
6. The Claimant was subsequently found, to be in compliance with child support requirements as of August 26, 2013.
7. On September 6, 2013, the Claimant re-applied for FIP.
8. On September 10, 2013, a PATH Appointment Notice was issued to the Claimant for a September 23, 2013 appointment and noted that PATH must be attended within 15 days of this notice.
9. On October 2, 2013, a Notice of Case Action was issued to the Claimant stating FIP was denied based on failure to attend the PATH program orientation.
10. On October 10, 2013, the Claimant filed a request for hearing¹ contesting the Department's actions regarding FIP.

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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 MC L 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

FIP is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so

¹ On the October 10, 2013 request for hearing, the Claimant also marked that she was contesting the Department's action regarding a denial of State Emergency Relief (SER). During the January 28, 2014 telephone hearing proceedings, the Claimant testified another agency helped with this and it has been paid already. The Claimant withdrew the SER portion of her hearing request on the record. Accordingly, the SER portion of the Claimant's appeal is DISMISSED.

they can become self-supporting. Federal and state laws require each work eligible individual in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230 A

Completion of the 21 day PATH application eligibility period (AEP) part of orientation is an eligibility requirement for approval of the FIP application. PATH participants must complete all of the following in order for their FIP application to be approved: begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice; Complete PATH AEP requirements; continue to participate in PATH after completion of the 21 day AEP. The Department is to deny the FIP application if an applicant does not complete all of the above three components of the AEP. BEM 229.

Bridges automatically issues the DHS-4785, PATH Program Appointment Notice at application. In generating a PATH referral and the DHS-4785 PATH Appointment Notice, Bridges will allow 6 days for the PATH referral to be processed through Central Print before requiring the client to attend PATH. BEM 229.

However, the Department is to temporarily defer an applicant who has identified barriers that require further assessment or verification before a decision about a lengthier deferral is made, such as clients with serious medical problems or disabilities or clients caring for a spouse or child with disabilities. Clients should not be referred to orientation and PATH AEP until it is certain that barriers to participation such as lack of child care or transportation have been removed, possible reasons for deferral have been assessed and considered, and disabilities have been accommodated. BEM 229

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in Bridges. Determination of a long-term disability is a three step process. The client must fully cooperate with the first two steps. The first step is establishment of disability. Once a client claims a disability he/she must provide DHS with verification of the disability when requested and the verification must indicate that the disability will last longer than 90 calendar days. If the verification is not returned, a disability is not established. The client will be required to fully participate in PATH as a mandatory participant. The second step is defining the disability. For verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a Medical Review Team (MRT) decision. The client must provide Department with the required documentation such as the DHS-49 series, medical and/or educational documentation needed to define the disability. If the client does not provide the requested verifications, the FIP should be placed into closure for failure to provide needed documentation. The third step is referral to MRT. Recipients determined as work ready with limitations are required to participate in PATH as defined by MRT. BEM 230 A.

Additionally, parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department, including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. Cooperation is a condition of eligibility for FIP. Cooperation is assumed until negative action is applied as a result of non-cooperation being entered. The non-cooperation continues until a comply date is entered by the primary support specialist or cooperation is no longer an eligibility factor. BEM 255.

Bridges applies the support disqualification when a begin date of non-cooperation is entered and there is no pending or approved good cause. The disqualification is not imposed if any of the following occur on or before the timely hearing request date: OCS records the comply date, the case closes for another reason; the non-cooperative client leaves the group; support/paternity action is no longer a factor in the child's eligibility (for example, the child leaves the group); client cooperates with the requirement to return assigned support payments to DHS and the support is certified; client requests administrative hearing. BEM 255.

A timely hearing request is a request received anywhere in the department within 11 days of the effective date of a negative action. When the 11th calendar day is a Saturday, Sunday, holiday, or other non-workday, the request is timely if received by the following workday. BAM 600.

The Claimant began receiving FIP on August 1, 2012, and was deferred from the PATH program while her claim that she was unable to work because of a disability was evaluated. On July 12, 2013, the MRT determined that the Claimant was work ready with limitations. Accordingly, on July 17, 2013, a PATH Appointment Notice was issued to the Claimant for a July 29, 2013 appointment and noted that PATH must be attended within 15 days of this notice. On July 24, 2013, the Claimant submitted a doctor's note dated March 15, 2013 stating the Claimant is "presently totally disabled due to spinal stenosis." The Family Independence Specialist noted that spinal stenosis was the Claimant's original diagnosis.

However, before any further actions were taken regarding the PATH program, a non-cooperation with child support requirements was entered for the Claimant, which caused an automatic closure of the FIP case. On August 3, 2013, a Notice of Case Action was issued to the Claimant stating, in part, the FIP case would close effective September 1, 2013 due to non-cooperation with child support requirements.

The Department has documented a non-compliance with child support requirements was entered for the Claimant with a non-cooperation date of August 1, 2013 and the comply date was not until August 26, 2013. The Family Independence Specialist testified that Claimant was subsequently found to be in compliance with child support requirements as of August 26, 2013, but not that the compliance date itself was entered on August 26, 2013.

The Claimant's request for hearing was not filed until October 10, 2013. The timely hearing request date for the August 3, 2013 Notice of Case Action would have been within 11 days of the September 1, 2013 effective date. There was no evidence that prior to the timely hearing request date for the August 3, 2013 Notice of Case Action, OCS recorded the comply date, the Claimant filed a request for hearing, or any of the other circumstances that would have allowed the disqualification to not be imposed as listed in the BEM 255 policy occurred. Accordingly, the August 3, 2013 determination to close the Claimant's FIP benefits based upon the non-cooperation entered into the Bridges system must be upheld.

The Claimant reapplied for FIP on September 6, 2013. On September 10, 2013, a PATH Appointment Notice was issued to the Claimant for a September 23, 2013 appointment and noted that PATH must be attended within 15 days of this notice. The Claimant did not attend. Therefore, on October 2, 2013, a Notice of Case Action was issued denying the Claimant's September 6, 2013 FIP application based on failure to attend the PATH program orientation.

The Claimant disagrees with the denial. The Claimant explained that her doctor has twice completed forms and sent them to the Department. The Claimant's doctor feels he has already provided the Department with the needed verification that the Claimant is totally disabled. Accordingly, the Claimant's doctor does not feel he should have to keep writing verifications, and just wrote the brief March 15, 2013 note that the Claimant is totally disabled. The Claimant testified she also went to a doctor the Department sent her to for an exam, during which the doctor had to help her onto the table.

The Claimant asserts that spinal stenosis was not her only diagnoses. Rather, the Claimant asserts her diagnoses were spinal stenosis with degenerative disc disease as well as bursitis in both hips and knees. The Claimant stated she sent in papers showing she receives injections every three months in her knees and hips. The Claimant stated she has a back brace and a cane, but can barely walk, cannot lift anything, and cannot sit for long periods. The Claimant stated she has constant spasms and takes medication four to five times per day, which makes her groggy. The Claimant needs another surgery on her back, to have polyps removed from her thyroid, and they just found a tumor in the center of her stomach that will be biopsied soon.

The Family Independence Specialist testified that she did not know offhand whether or not the Claimant claimed a disability on the September 6, 2013 FIP application. The Family Independence Specialist noted that for any claim of disability verification must be provided. The Claimant's testimony indicated she only submitted additional documentation she was unable to work due to disability for her more recent FIP application filed in late December 2013 or January 2014.

The evidence does not establish that the Claimant claimed she was unable to work because of a disability for the September 6, 2013 FIP application. The evidence further indicates no new verification of disability was provided for the September 6, 2013 FIP application. Additionally, the MRT had just determined the Claimant was work ready

with limitations on July 12, 2013. The only additional documentation of disability from the Claimant since the MRT determination was the July 24, 2013, submission of the doctor's brief note dated March 15, 2013, which did not provide any new diagnosis or information regarding the Claimant's impairments and functional abilities. Without a current claim that the Claimant was unable to work because of a disability and supporting medical documentation, the Department properly referred the Claimant to PATH and denied the September 6, 2013 FIP application when the Claimant failed to attend.

The Administrative Law Judge, based on 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 closed the Claimant's FIP benefits due to non-cooperation with child support requirements and when it denied the Claimant's September 6, 2013 FIP application based on failure to attend the PATH program orientation.

DECISION AND ORDER

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



Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 7, 2014

Date Mailed: February 7, 2014

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.

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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

CL/hj

cc:

