

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-002537
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: JUNE 19, 2014
County: MACOMB-DISTRICT 20

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 June 19, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and [REDACTED], Claimant's mother. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case?

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 who had been deferred from the PATH program due to her medical condition.
2. On March 5, 2014, after she was advised that her deferral was ending, Claimant submitted a DHS 54, Medical Needs – JET, in which her doctor stated that Claimant was unable to engage in any work for one year.
3. On March 7, 2014, the Department sent Claimant a Medical Determination Verification Checklist (VCL) requesting that she submit by March 17, 2014 the following: DHS 49, medical examination report; DHS 49D, psychiatric/psychological examination report; DHS 49E, mental residual functional capacity

assessment; DHS49 F, medical social questionnaire; DHS 49G, activities of daily living; and DHS 1555, authorization to release protected health information.

4. On March 19, 2014, Claimant submitted a completed DHS 49G and DHS 49F with a cover page requesting additional time to submit her doctors' documents.
5. The Department granted Claimant an extension of the VCL due date to March 27, 2014.
6. On April 1, 2014, the Department sent Claimant a PATH Appointment Notice notifying that she was required to attend an April 14, 2014 PATH orientation.
7. Claimant did not attend the orientation.
8. On April 21, 2014, the Department sent Claimant (i) a Notice of Noncompliance notifying that she had failed to comply with the work participation program and scheduling a triage on May 1, 2014 and (ii) a Notice of Case Action notifying her of the closure of the group's FIP case effective June 1, 2014, based on her noncompliance with employment-related activities without good cause.
9. Claimant attended the triage and explained that she did not attend the April 14, 2014 orientation appointment because she was advised not to do so by her psychiatrist and because she did not have daycare for her infant.
10. The Department concluded that Claimant did not have good cause for her noncompliance and closed the group's FIP case.
11. The Department sanctioned Claimant's FIP case with a minimum three-month closure for a first occurrence of noncompliance.
12. On May 12, 2014, Claimant filed a request for hearing disputing 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), 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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

Additionally, the Department closed Claimant's FIP case for a first noncompliance with employment-related activities, resulting in a three-month sanction imposed on her future receipt of FIP benefits. Claimant requested a hearing.

As a condition of continued FIP eligibility, work eligible individuals are required to participate in a work participation program or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230A (October 2013), p. 1; BEM 233A (July 2013), p. 1.

In this case, Claimant sought a deferral from participation in the PATH program based on a mental disability and presented to the Department a medical needs form prepared by her doctor showing that her disability would last longer than 90 days. When an individual claims at any time during an ongoing benefit period 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 and presents verification that the disability will last more than 90 days, the Department must obtain a completed medical packet and forward it to the Medical Review Team (MRT). BEM 230A (October 2013), p. 12.

In this case, the Department sent Claimant a March 7, 2014 Medical Determination VCL requesting that a completed medical packet by March 17, 2014. The client must provide the Department with the required documentation needed to define the disability. BEM 230A, pp. 12-13. When a client provides a completed DHS-49F, Medical Social Questionnaire, the optional DHS 49-G, Activities of Daily Living, and a signed the DHS-1555, Authorization to Release Protected Health Information, in response to a Medical Determination VCL, the Department specialist must forward these documents to MRT. BAM 815 (July 2013), pp. 3-5. The completion of medical documents is the responsibility of the physician. BAM 815, p. 5.

In this case, the Department referred Claimant to the PATH program because it concluded that Claimant had failed to properly respond to the VCL. The Department presented documentation showing that Claimant submitted a completed DHS 49F and DHS 49G on March 19, 2014. Although the Department contended at the hearing that no DHS 1555 was submitted, the case notes from Claimant's worker show that a completed DHS 1555 was included with the documents submitted on March 19, 2014. Therefore, Claimant submitted all the documents she was required to submit in order to have her disability packet referred to MRT. While the determination of disability is processed, the client should be deferred from ongoing participation in the PATH program. BEM 230, p. 12. Because Claimant turned in all the documents she was required to submit, the Department did not act in accordance with Department policy when it failed to forward the documents to MRT and continue to defer Claimant as "establishing incapacity" while MRT processed the medical packet.

It is further noted that at the hearing Claimant presented documentation from her psychiatrist dated May 21, 2014 that she contended she submitted to the Department. Although Claimant's testimony concerning when she submitted the document was unclear, this document should be included with the medical packet forwarded to MRT.

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. Remove any FIP employment-related sanction applied to Claimant's record on or about June 1, 2014;
2. Reinstate Claimant's FIP case effective June 1, 2014;
3. Issue supplements to Claimant for FIP benefits she was eligible to receive but did not from June 1, 2014 ongoing;
4. Forward Claimant's medical packet to MRT; and
5. Notify Claimant in writing of MRT's decision.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **6/24/2014**

Date Mailed: **6/25/2014**

ACE / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

