

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

**IN THE MATTER OF:**



Reg. No.: 14-007611  
Issue No.: 1008  
Case No.:   
Hearing Date: August 26, 2014  
County: Genesee-District 2 (Mc Cree)

**ADMINISTRATIVE LAW JUDGE:** Darryl T. Johnson

**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 August 26, 2014, from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included Hearings Facilitator .

**ISSUE**

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

**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 on-going FIP recipient.
2. Claimant had been deferred from participation in the PATH program.
3. On April 28, 2014, the Department mailed to Claimant a notice that she was to appear for PATH orientation on May 6, 2014, at 9:00 a.m.
4. Claimant did not attend the orientation.
5. On June 6, 2014, the Department mailed to Claimant a Notice of Noncompliance (Exhibit 1 Pages 5-6) and a Notice of Case Action (Exhibit 1 Pages 9-18) informing her that her FIP would be closed effective July 1, 2014, and that triage was scheduled for June 18, 2014.
6. Claimant did not attend the triage.

7. On July 9, 2014, Claimant requested a hearing.

### **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.

“Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of necessary forms; see Refusal to Cooperate Penalties in this item. Clients must completely and truthfully answer all questions on forms and in interviews.” BAM 105.

Per BAM 130, at page 6, says:

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a DHS representative are considered to be received the next business day.

Send a negative action notice when:

The client indicates refusal to provide a verification, **or**

The time period given has elapsed and the client has **not** made a reasonable effort to provide it.

The issue is whether the Claimant provided participated in PATH, and if she did not, whether she demonstrated good cause at the triage.

Claimant testified that she has had problems with delivery of the mail to her home. Her mail has been mistakenly placed in her neighbor's mailbox. He is elderly and has a caretaker come in once or twice a week to help him. Claimant did not receive the PATH notice until after the date of her appointment had passed. She also testified that she did not receive the triage notice until after the triage date.

The evidence is persuasive that the forms were mailed to the Claimant at her address of record. The evidence also establishes that the Claimant did not fully respond or make a

reasonable effort to respond by the deadline. Claimant testified credibly that she has fulfilled every obligation imposed by the Department, which she was aware of; and if she had received the communications from the Department timely, she would have complied with them.

The Department used the address that the Claimant provided – and which she verified at the hearing. The Claimant has, however, rebutted the presumption that he received the Notice. In common-law, there is a presumption that letters have been received after being placed in the mail in the due course of business. See *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270, 275-278 (1976).

Although she did not comply by attending either the PATH or the triage appointments, the undersigned is convinced that her failure to respond was because she did not receive the communications and thus did not know of the appointments.

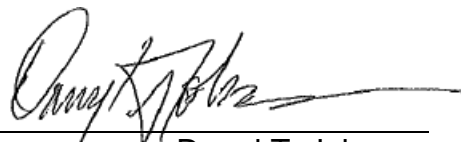
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's FIP benefits.

#### **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. Redetermine Claimant's FIP benefit eligibility, effective July 1, 2014;
2. Issue a supplement to Claimant for any benefits improperly not issued.



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Darryl T. Johnson  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: **8/28/2014**

Date Mailed: **8/28/2014**

DTJ / jaf

**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:

