

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

IN THE MATTER OF:

██████████
██
██

Reg. No.: 14 007612
Issue No(s): 1008, 3008
Case No.: ██████████
Hearing Date: August 21, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 21, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Interpreter. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Independence Case Manager.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) and reduce his Food Assistance Program (FAP) benefits for failure to participate in required employment related activities?

Did the Department properly determine that Claimant was eligible for Emergency Services Only (ESO) following his application for Medical Assistance (MA) 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 ongoing recipient of FIP and FAP benefits.
2. Claimant and his wife completed the required 21 day Partnership. Accountability Training. Hope (PATH) application eligibility period (AEP) part of orientation.
3. Claimant failed to answer 50 questions necessary to receive FIP benefits.

4. The Department closed Claimant's FIP benefits and reduced his FAP benefits.
5. Claimant, with the help of an interpreter, completed the 50 questions.
6. The Department reinstated Claimant's FIP and FAP benefits but required Claimant and his wife to go through the AEP part of orientation again.
7. Claimant began working near the same date he was expected to go through the AEP part of orientation for a second time.
8. Claimant and his wife failed to complete the second AEP.
9. Claimant was also required to report his work hours to ACCESS but failed to do so.
10. On June 12, 2014, the Department sent Claimant a Notice of Non Compliance, scheduling a meeting to discuss his failure to complete the AEP and his failure to report his work hours.
11. Also on June 12, 2014, the Department sent Claimant a Notice of Case Action notifying him that his FIP benefits would close and his FAP benefits would be reduced because he and/or a group member failed to participate in employment related activities.
12. Claimant did not appear for the Non Compliance Meeting.
13. Claimant is also an ongoing MA recipient.
14. Claimant applied for MA benefits on January 27, 2014.
15. Claimant began receiving ESO medical benefits.
16. On July 15, 2014, Claimant filed a Notice of 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.

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

FIP/FAP

Additionally, Department policy requires that clients complete the 21 day PATH AEP part of orientation which 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.

Claimant applied for FIP and FAP benefits. Claimant began receiving FAP benefits but he and his wife were required to complete the orientation portion of the PATH program prior to receiving FIP benefits. Claimant and his wife completed the AEP part of the program. As such, Claimant began receiving FIP benefits. Claimant was also required to complete FAST, which encompassed answering 50 questions. Claimant did not timely complete the FAST requirement. Claimant and his wife have a clear language barrier and the Department had previously provided interpretation services to Claimant and his wife in the past. The Department issued Claimant a Notice of Non Compliance in April 2014 for failure to complete FAST. Claimant and his wife went into a Department office and with the help of an interpreter, completed the FAST requirement. As a result, the Department reinstated Claimant's FIP and FAP benefits.

The Department had initially closed Claimant's FIP benefits but reinstated the benefits upon completion of FAST. The Department also sent Claimant and his wife back to PATH to complete the AEP again. Claimant began working at the same time he was sent back to complete the AEP program again. Neither Claimant nor his wife participated in the AEP program the second time. As a result, on June 12, 2014, the Department sent Claimant a Notice of Non Compliance. The Department also sent Claimant a Notice of Case Action notifying him that his FIP case would close and his

FAP benefits would be reduced for failure to participate in employment related activities. Claimant failed to appear for the Non Compliance meeting and the Department ended his FIP benefits and reduced his FAP benefits effective July 1, 2014. There is nothing in Department policy which requires an individual to complete the AEP program for a second time upon reinstatement of benefits. Reinstatement implies that things are returned to their previous state. At the time Claimant's benefits were reinstated, he had already completed the AEP program.

The Department also stated that Claimant failed to advise ACCESS that he was working. However, the Department was able to provide the number of hours Claimant worked for approximately four weeks and was aware that as of the date of the hearing, Claimant was unemployed. Accordingly, Claimant's work information must have been communicated to the Department. An individual is exempt from PATH if he or she is working 40 hours per week. BEM 230A (October 2013), pp. 7-8. The Department testified that Claimant worked 40 hours for at least two weeks. Claimant testified that his wife did not attend PATH while he was working because there was only one car in the household. It is unclear as to whether the Department was aware of the transportation barrier that existed. Claimant further stated that he did not attend PATH because he believed that he was not eligible for FIP benefits because he began working and as a result, he did not report his hours to ACCESS. It is entirely possible that Claimant was under this mistaken belief due to the language barrier that exists in this case.

The Department testified that the closure of Claimant's FIP benefits and the reduction of Claimant's FAP benefits were based in part or in whole on Claimant's and his wife's failure to complete the AEP program for a second time. Because there is no policy requiring Claimant to repeat the AEP, it is found that the Department improperly closed Claimant's FIP case and improperly reduced Claimant's FAP benefits for failure to repeat the AEP. Further, it is found that the language barrier that clearly exists in this case provided good cause for Claimant's failure to report his hours to ACCESS and as such, the Department improperly closed Claimant's FIP benefits and improperly reduced Claimant's FAP benefits.

MA

Claimant applied for MA benefits on January 27, 2014. Claimant stated that he has only received ESO only since the date of his application. The Department stated that Claimant has refugee status and under its policy is therefore entitled to full MA benefits. BEM 225 (January 2014), pp. 6-7. The Department further stated that due to a glitch in its computer system, it is unable to provide Claimant with full MA at this time. However, the Department was unable to articulate what information it relied on in determining that Claimant was entitled to refugee status and thus eligible for full MA service. Accordingly, it is unclear if Claimant is entitled to full MA or ESO benefits only.

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 and

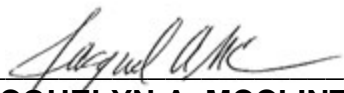
reduced his FAP benefits for failure to participate in employment related activities. Further, it is found that the Department has not clearly determined what MA benefits Claimant is entitled.

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. Reinstate Claimant's FIP benefits effective July 1, 2014 and determine his eligibility based on any income of the group;
2. Issue supplements to Claimant for FIP benefits that he was entitled to receive but did not effective July 1, 2014;
3. Reinstate Claimant's FAP benefits effective July 1, 2014 and determine his eligibility based any income of the group;
4. Issue supplements to Claimant for FIP benefits that he was entitled to receive but did not effective July 1, 2014.
5. Redetermine Claimant's eligibility for MA benefits;
6. Issue supplements to Claimant for MA benefits he was entitled to receive but did not effective July 1, 2014; and
7. Notify Claimant in writing of its decision relating to MA eligibility


JACQUELYN A. MCCLINTON
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: August 28, 2014

Date Mailed: August 28, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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

JAM/cl

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