

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

IN THE MATTER OF:



Reg. No.: 14-010954
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: November 06, 2014
County: WAYNE-15 (GREYDALE)

ADMINISTRATIVE LAW JUDGE: Robert Chavez

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 November 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] PATH CM.

ISSUE

Did the Department properly close Claimant's case for PATH noncompliance?

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 a recipient of FIP benefits in Wayne County.
2. Claimant was a required PATH participant.
3. On August 11, 2014, Claimant was referred to triage due to alleged non-participation with the PATH program.
4. The triage in question was scheduled for August 19, 2014.
5. On August 12, 2014, Claimant contacted her caseworker to request that the triage be held by phone.
6. This request was not acted upon, and a triage was held without the Claimant on August 19, 2014.

7. Claimant found out about the miscommunication, and alerted the caseworker.
8. A new phone triage was scheduled for August 26, 2014, but no notice of the new triage date was sent.
9. Claimant did not attend this triage.
10. No notice of case action was generated closing Claimant's case.
11. Claimant's FIP case closed as of September 1, 2014, and placed under sanction.
12. On September 9, 2014, Claimant appealed.

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 Department was not able to locate a notice of case action in this matter, and Claimant alleged to have never received a notice of case action. Per policy in BAM 220, no negative action may be taken without issuance of timely notice; as such, the Department's action is insufficient from the outset.

However, the undersigned feels that the issue of the triage must be briefly addressed. A miscommunication between Claimant and her caseworker resulted in Claimant missing the first triage, despite Claimant's request for a phone triage. While policy does require a phone triage to be immediately offered on Claimant request, the undersigned feels that the miscommunication was a genuine misunderstanding, one in which the Department attempted to rectify.

However, there is no evidence that Claimant was properly notified of the new phone triage. While nothing in BEM 233A can be read to require a new DHS-2444 issuance when the triage must be rescheduled, common sense dictates that the Claimant must still be notified in some way, in order to preserve Claimant's absolute policy right to a triage. No evidence has been submitted showing that Claimant was notified of the new

triage date and time. While the Department representative testified that Claimant had been notified, there was no evidence to support this testimony, and Claimant disputed this.

Without evidence showing that Claimant had been notified of the new triage, the undersigned must hold that Claimant was not notified of the new triage; therefore the Department did not satisfactorily provide Claimant with a triage, and a new triage must be scheduled before any action can be taken against Claimant's benefit case.

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

failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP benefits and sanctioned Claimant's benefit 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. Remove all negative actions and sanctions against Claimant's FIP benefit case retroactive to the date of negative action.



Robert Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **11/17/2014**

Date Mailed: **11/17/2014**

RJC / tm

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 48909-8139

cc:

