

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

IN THE MATTER OF:

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████████████████████ ██████████
████████████████████

Reg. No.: 14-006984
Issue No.: 1008
Case No.: ██████████
Hearing Date: October 06, 2014
County: Wayne (35-Redford)

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 October 6, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ ██████████
██████████

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for failure to verify requested information?

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 participation from the PATH program based on a disability.
2. On May 16, 2014, the Department sent Claimant a Medical Determination Verification Checklist (VCL) requesting that she submit by May 27, 2014 (i) medical records (or DHS-49, Medical Examination Report); (ii) DHS-49F, Medical Social Questionnaire; (iii) DHS-49G, Activities of Daily Living; and (iv) DHS-1555 or DHS-1555E, Authorization to Release Protected Health Information.
3. On May 29, 2014, Claimant met with her worker and the Department agreed to extend the VCL due date to June 9, 2014.

4. On June 9, 2014, Claimant submitted a completed DHS-54E, Medical Needs-PATH form.
5. On June 10, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP case would close effective July 1, 2014, because there were no eligible members in the group and because she had failed to verify information necessary to determine her eligibility for benefits.
6. On July 2, 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 June 10, 2014, Notice of Case Acton notified Claimant that her FIP case would close effective July 1, 2014, because (i) there were no eligible group members in the household and (ii) Claimant failed to provide requested verifications necessary to process her eligibility. At the hearing, the Department clarified that the closure of Claimant's FIP case was due to her failure to timely respond to the May 16, 2014, VCL.

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 physical disability. Claimant testified that she provided her worker at a May 29, 2014, meeting with a "Disability Certificate" dated May 23, 2014, signed by her doctor indicating that she was incapacitated from [REDACTED], and was able to return to light work duties on [REDACTED]. Department policy provides that, when a returned verification indicates that the disability will last 90 days or less, the disability should be treated as a short-term incapacity and the client deferred up to three months. BEM 230A, pp. 11, 12. However, from the testimony at the hearing, it appears that Claimant had been receiving ongoing deferrals for short-term disabilities, and the

Department sought to determine whether Claimant was eligible for a deferral for a long-term incapacity.

Department policy requires that the Department obtain a completed medical packet and forward it to the Medical Review Team (MRT) once the client has presented verification that the disability will last more than 90 days. BEM 230A, p. 12. A client is deferred from ongoing participation in the PATH program while the determination of long-term disability is processed. BEM 230A, p. 12. In this case, the Department sent Claimant a May 16, 2014, Medical Determination VCL requesting a completed medical packet by May 27, 2014.

At the hearing, Claimant credibly testified that the May 16, 2014, VCL was sent to the wrong address; that she met with her worker on May 29, 2014, to advise her that she received the VCL late because it was delivered to her old address; and that her worker agreed to extend the due date to June 9, 2014. Consistent with her testimony, Claimant provided at the hearing a Medical Determination VCL identical to that sent to her on May 16, 2014, at the incorrect address but (i) dated May 29, 2014, (ii) with a June 9, 2014, due date, and (iii) showing her corrected address. Claimant further credibly testified that she completed and submitted to her worker the DHS-49F, DHS-49G, and DHS-1555 at the May 29, 2014, meeting. On the updated May 29, 2014, VCL, the line requesting the completed DHS-49 was highlighted, supporting Claimant's testimony that she completed and submitted the other requested documents at the May 29, 2014, meeting and the only outstanding document she was required to provide was the DHS-49 from her doctor.

When a client provides a completed DHS-49F, Medical Social Questionnaire, the optional DHS 49G, Activities of Daily Living, and a signed DHS-1555, Authorization to Release Protected Health Information, in response to a Medical Determination VCL, the Department specialist must forward these documents to the Medical Review Team. BAM 815 (July 2014), pp. 3-5. The completion of medical documents is the responsibility of the physician. BAM 815, p. 6.

In this case, Claimant established that she submitted to the Department a completed DHS-49F and DHS-49G on May 29, 2014, and the Department acknowledged that it received a DHS-54E, Medical Needs—PATH form, on June 9, 2014. While the second page of the DHS-54E form with the doctor's signature was not provided, there was no evidence presented by the Department that the form was incomplete. Although the Department requested in the VCL medical documents or a completed DHS-49, not a completed DHS-54E, the Medical Needs form is dated May 16, 2014, and therefore was presumably included in the original VCL sent to Claimant, leading Claimant to believe that this was the document her doctor was required to complete.

Because Claimant turned in all the documents she was required to submit, specifically the DHS-49F, DHS-49G and the DHS-1555, 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.

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 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. Reinstate Claimant’s FIP case effective July 1, 2014; and
2. Issue supplements to Claimant for FIP benefits from July 1, 2014 ongoing.



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

Date Signed: **10/9/2014**

Date Mailed: **10/9/2014**

ACE / pf

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]