

**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.: 2014-10760
Issue No.: 1007
Case No.: ██████████
Hearing Date: December 4, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 December 4, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, and Claimant's wife, ██████████. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Family Independence Manager, and ██████████ Case Manager.

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) application effective August 1, 2013, ongoing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On July 9, 2013, Claimant applied for FIP benefits, in which Claimant indicated they were living in a hotel and used the Department's address as a temporary mailing address. See Exhibit 1.
2. On July 10, 2013, the Department sent Claimant and his spouse a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice, which scheduled them for an orientation at an incorrect PATH location on July 23, 2013. Exhibit 1.
3. On July 10, 2013, the Department sent Claimant a Verification Checklist (VCL), which was due back by July 22, 2013. See Exhibit 1.

4. On July 24, 2013, Claimant reported a new address and the Department discovered that the PATH Appointment Notices indicated the incorrect PATH location.
5. On August 1, 2013, the Department sent Claimant and his spouse a PATH Appointment Notice, which scheduled them for an orientation on August 12, 2013. See Exhibit 1.
6. On August 1, 2013, the Department also sent Claimant a VCL to the updated address, which was also due back by August 12, 2013. See Exhibit 1.
7. Claimant and his spouse failed to attend the PATH orientation and also failed to submit the requested verifications.
8. On August 19, 2013, the Department sent Claimant a Notice of Case Action notifying him that the FIP benefits were denied effective August 1, 2013, ongoing, due to their failure to attend the orientation and failure to comply with the verification requirements. See Exhibit 1.
9. On August 26, 2013, Claimant reapplied for FIP benefits. See Exhibit 1.
10. The Department failed to process the August 26, 2013 application timely; however, it ultimately processed it on September 20, 2013.
11. On September 20, 2013, the Department sent Claimant and his spouse a PATH Appointment Notice, which scheduled them for an orientation on September 30, 2013. See Exhibit 1.
12. Claimant completed the PATH eligibility requirements.
13. On October 21, 2013, the Department sent Claimant a Notice of Case Action notifying him that he was approved for FIP benefits for October 2013 in the amount of \$233.15 and approved for November 2013, ongoing, in the amount of \$496.15. See Exhibit 1.
14. In October 2013, the Department submitted a ticket to request that Claimant receive a full month of FIP benefits for October 2013 due to the Department's delay in processing the August 26, 2013 FIP application.
15. On October 28, 2013, Claimant filed a hearing request, disputing his FIP denial regarding the July 9, 2013 application.
16. In November 2013, Claimant was supplemented a full month of FIP benefits for October 2013.

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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

As a preliminary matter, Claimant is disputing the Department's denial of his FIP application effective August 1, 2013, ongoing. Claimant agreed that he received his October 2013 supplement and is not disputing his FIP benefits from October 2013, ongoing. However, Claimant is disputing that he should receive FIP benefits for August and September 2013.

In this case, on July 9, 2013, Claimant applied for FIP benefits, in which Claimant indicated they were living in a hotel and used the Department's address as a temporary mailing address. See Exhibit 1. On July 10, 2013, the Department sent Claimant and his spouse a PATH Appointment Notice, which scheduled them for an orientation at an incorrect PATH location on July 23, 2013. Exhibit 1. On July 10, 2013, the Department sent Claimant a Verification Checklist (VCL), which was due back by July 22, 2013. See Exhibit 1. On July 24, 2013, Claimant reported a new address and the Department discovered that the PATH Appointment Notices indicated the incorrect PATH location. Thus, on August 1, 2013, the Department sent Claimant and his spouse a PATH Appointment Notice, which scheduled them for an orientation on August 12, 2013. See Exhibit 1. On August 1, 2013, the Department also sent Claimant a VCL to the updated address, which was also due back by August 12, 2013. See Exhibit 1. The Department testified that Claimant and his spouse failed to attend the PATH orientation and also failed to submit the requested verifications. Therefore, on August 19, 2013, the Department sent Claimant a Notice of Case Action notifying him that the FIP benefits were denied effective August 1, 2013, ongoing, due to their failure to attend the orientation and failure to comply with the verification requirements. See Exhibit 1.

At the hearing, Claimant and his spouse testified that they never received any of the DHS correspondence. Claimant and his spouse testified that the first DHS correspondence they received was the hearing packet containing the attached exhibits. Claimant and his spouse testified they did not receive the PATH appointments for August 1, 2013. Moreover, Claimant and his spouse testified they did not receive the VCL dated August 1, 2013 or the denial letter dated August 19, 2013. Claimant's spouse testified that she discovered the FIP denial when she visited the local DHS office on August 26, 2013 and thus, subsequently applied again for cash assistance. See Exhibit 1. Claimant and his spouse testified that they are receiving all of their third

party mail, other than the DHS correspondence. Therefore, Claimant and his spouse testified that they had the post office hold their mail beginning on or around September 13, 2013. Claimant and his spouse testified that they notified the Department regarding the mailing issue in August 2013.

The Department testified that it did not receive any unreturned mail. The Department also presented a correspondence history that showed the PATH Appointment notices and the denial notice (dated August 19, 2013) was sent via central print. See Exhibit 1. It should be noted that the address indicated on the PATH Appointment on August 1, 2013 and all correspondence ongoing was the correct address.

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Based on the foregoing information, it is found that the Claimant rebutted the presumption of proper mailing. First, Claimant and his spouse credibly testified that they were having difficulty in obtaining their DHS correspondence. The Claimant supported their testimony by indicating that they had their mail held by the post office and even notified the Department of this problem. Second, the Department failed to rebut Claimant's testimony that they contacted the Department regarding issues with the mail. Third, it is evident that the Department was having difficulty with Claimant's address for the July 9, 2013 application. The Department admitted it failed to update the address at the time of application. See Hearing Summary, Exhibit 1. Even though the Department cured its action by sending a subsequent PATH appointment notice, Claimant rebutted this assertion by them credibly testifying that they are not receiving the DHS correspondence.

In summary, Claimant rebutted the presumption of proper mailing because they provided credible testimony that they were not receiving their DHS correspondence and even took subsequent actions (i.e., mail being on hold) in an attempt to resolve the situation. Therefore, the Department improperly denied Claimant's FIP application effective August 1, 2013, ongoing, due to Claimant and his spouse not receiving their DHS correspondence.

It should also be noted in regards to the August 26, 2013 FIP application, it appears that the Claimant should have also been supplemented for FIP benefits from September 16, 2013 to September 30, 2013.

A pay period is either the first through the 15th day or the 16th through the last day of the month. BAM 400 (July 2013), p. 1. For cash benefits, at opening, the group is eligible for benefits no earlier than the pay period in which the application becomes 30 days old. BAM 400, p. 2.

Based on this information, it appears that Claimant should have received FIP benefits for the pay period of September 16, 2013. Nevertheless, the Department will reprocess Claimant's FIP application for August and September 2013.

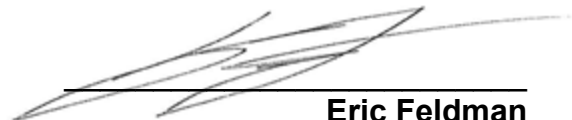
DECISION AND ORDER

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 denied Claimant's FIP application effective August 1, 2013, ongoing.

Accordingly, the Department's FIP 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. Reregister the July 9, 2013 FIP application;
2. Begin reprocessing the application/recalculating the FIP budget for August 1, 2013, ongoing, in accordance with Department policy;
3. Issue supplements to Claimant for any FIP benefits he was eligible to receive but did not from August 1, 2013, ongoing; and
4. Notify Claimant in writing of its FIP decision in accordance with Department policy.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 10, 2013

Date Mailed: December 10, 2013

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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

EJF/cl

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
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