

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-12939
Issue No(s): 1008
Case No.: [REDACTED]
Hearing Date: January 30, 2014
County: Kent-00

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, an in person hearing was held on January 30, 2014, from Grand Rapids, Michigan. Participants on behalf of Claimant included Claimant. Claimant's Attorney [REDACTED] from [REDACTED] of [REDACTED] appeared for the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Did the Department properly close Claimant's 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 a recipient of FIP benefits who was deferred from PATH requirements due to having a disabled child.
2. On October 8, 2013 a Family Self Sufficiency Plan was agreed to and Claimant was given required activity and logs to complete to document that activity.
3. On October 10, 2013 Claimant contacted [REDACTED] to set up a counseling appointment.
4. On October 30, 2013 Claimant's case was put into negative action and notice of a November 6, 2013 triage meeting was scheduled for November 6, 2013.
5. Claimant failed to appear at the November 6, 2013 triage meeting.

6. On November 6, 2013 the Department received Claimant's request for hearing contesting the closure of FIP benefits.

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 MC L 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

NONCOMPLIANCE WITH EMPLOYMENT AND/OR SELF-SUFFICIENCY-RELATED ACTIVITIES

As a condition of eligibility, all WEIs and non-WEIs must work or engage in employment and/or self-sufficiency-related activities. Noncompliance of applicants, recipients, or member adds means doing any of the following without good cause:

Failing or refusing to:

Appear and participate with PATH or other employment service provider.

Complete a Family Automated Screening Tool (FAST), as assigned as the first step in the Family Self-Sufficiency Plan (FSSP) process.

Note: The specialist should clear any alerts in Bridges relating to rejected PATH referrals and any FAST confirmation information the client has obtained before considering a client noncompliant for FAST completion.

Develop a FSSP.

Note: A FSSP completion appointment with the client must have been scheduled and the client failed to attend before considering a client noncompliant for FSSP completion.

Comply with activities assigned on the FSSP.

Provide legitimate documentation of work participation.

Appear for a scheduled appointment or meeting related to assigned activities.

Participate in employment and/or self-sufficiency-related activities.

Participate in required activity.

Accept a job referral.

Complete a job application.

Appear for a job interview (see the exception below).

Stating orally or in writing a definite intent not to comply with program requirements.

Threatening, physically abusing or otherwise behaving disruptively toward anyone conducting or participating in an employment and/or self-sufficiency-related activity.

Refusing employment support services if the refusal prevents participation in an employment and/or self-sufficiency-related activity. BEM 233A

Additionally, Claimant was assigned activity to receive counseling from [REDACTED] [REDACTED]. Claimant suggested this activity and agreed to it. Claimant had received services from [REDACTED] [REDACTED] prior to October 2013. Claimant appeared at [REDACTED] [REDACTED] on October 10, 2013 seeking counseling services. Claimant was informed that an appointment was not available until October 28th. Claimant contacted her worker [REDACTED] and left a message. Claimant testified that she did not hear back from [REDACTED]. [REDACTED] testified that she contacted Claimant but was unable to reach her. [REDACTED] had no specific recollection about what her message said. No notation was made regarding [REDACTED] [REDACTED] returning of Claimant's message until October 29, 2013. Claimant credibly testified that she did not receive notice of the triage meeting.

This Administrative Law Judge cannot find that Claimant refused to cooperate or that she was noncompliant. BEM 233A Claimant made contact with the service provider in a timely fashion and it was understandable that they would not have any appointments available for several weeks. Claimant contacted her worker to explain the circumstances but was unable to reach her. Claimant did not understand that she could have submitted log sheets confirming that no appointments were available and that may have kept her in compliance. If she had reached [REDACTED] [REDACTED] this may have been explained to her.

Claimant did complete one counseling session with [REDACTED] on November 4, 2013 and two others in December 2013. Claimant was referred to another provider and has been receiving counseling continuously the past several months. Claimant's actions show that she is making a consistent effort to address her needs and remove barriers to employment. Claimant's submitted documentation at hearing showing her participation with the assigned activity.

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 going back to the date of closure and delete the negative action.
2. Pay Claimant a supplement for any missed FIP benefits.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 7, 2014

Date Mailed: February 7, 2014

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

AM/las

cc:

