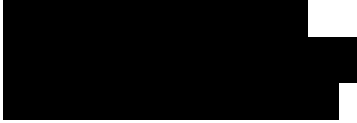


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 201413939
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: December 18, 2013
County: Oakland County DHS #02

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 December 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Manager, and [REDACTED] JET Case Manager.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case based on Claimant's failure to participate in employment-related activities without good cause?

Did the Department take an improper negative action with respect to Claimant's Medical Assistance (MA) and Food Assistance Program (FAP) cases?

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 is an ongoing recipient of MA and FAP.
2. In October 2012, Claimant applied for FIP and sought a deferral from participation in the work participation program because of a disability.
3. In January 2013, the Medical Review Team (MRT) concluded that Claimant was not disabled and could participate in the PATH program.
4. Claimant was referred to the PATH program and did not attend.
5. Claimant's FIP case was closed and sanctioned in June, 2013.

6. Claimant requested a hearing concerning the closure of his FIP case, and in a hearing decision entered in connection with the July 1, 2013, hearing, Administrative Law Judge Eric Feldman reversed the Department and ordered the Department to gather new medical verifications for MRT's review.
7. Claimant submitted new medical documents to the Department.
8. On October 8, 2013, MRT denied Claimant's request for a deferral, finding him not disabled/work-ready with limitation.
9. On October 10, 2013, the Department sent Claimant a Quick Note advising him that MRT had denied his request for a deferral from participation in PATH and he was required to attend PATH.
10. On October 10, 2013, the Department sent Claimant a PATH Appointment Notice requiring that he attend the PATH orientation on October 22, 2013.
11. Claimant did not attend the October 22, 2013, PATH appointment.
12. On October 29, 2013, the Department sent Claimant (i) a Notice of Noncompliance notifying him of the PATH noncompliance and scheduling a triage on November 5, 2013 and (ii) a Notice of Case Action notifying him that his FIP case would close effective December 1, 2013, because he had failed, without good cause, to comply with employment related activities.
13. On November 5, 2013, the Department held the triage, with Claimant in attendance, and concluded that there was no good cause for Claimant's noncompliance.
14. The Department applied a three month sanction to Claimant's FIP case.
15. On November 12, 2013, Claimant filed a hearing request disputing the Department's actions concerning his FIP, FAP, MA, and Child Development and Care (CDC) cases.

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.

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 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Dismissal of CDC, MA and FAP Hearing Request

In his November 10, 2013, hearing request, Claimant requested a hearing concerning his FIP, FAP, MA and CDC cases. At the hearing, Claimant acknowledged that he did not receive and had not requested CDC benefits. Because Claimant was not an aggrieved party with respect to CDC, his hearing request concerning CDC is dismissed. See Mich Admin Code, R 400.903(1).

The Department explained that it closed Claimant's FIP case because he had failed to comply with employment-related activities but his FAP and MA cases were not affected. The Department presented an eligibility summary showing that Claimant's MA and FAP cases were active and ongoing. The October 29, 2013, Notice of Case Action to which Claimant's hearing request is tied notified Claimant only that his FIP case was closing. In the absence of any evidence that the Department took any negative action with respect to Claimant's FAP and MA cases prior to his November 21, 2013 hearing request, Claimant has failed to establish that he is an aggrieved party concerning his FAP and MA cases. Mich Admin Code, R 400.903(1). Accordingly, Claimant's hearing request concerning the FAP and MA cases is dismissed. The hearing proceeded to address the closure of Claimant's FIP case.

Closure of FIP Case

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.

At the hearing, the Department established that MRT found, based on a second review of Claimant's condition after new medical documentation was submitted to MRT following the July 1, 2013, hearing, that Claimant was **not** disabled and could participate in the PATH program with accommodations. Based on MRT's decision, Claimant was sent to a PATH orientation on October 22, 2013. Claimant admitted he did not attend the orientation because of his medical condition and that he would not ever be able to attend PATH. If a client fails to appear for a scheduled appointment or meeting related to assigned activities or states orally or in writing a definite intent not to comply with program requirements, the individual is in noncompliance with employment-related activities. BEM 233A (July 2013), pp. 2-3. Claimant's failure to attend the

October 22, 2013, meeting and statement that he would not be able to participate established that he was in noncompliance with employment-related activities.

Before terminating a client from the work participation program and closing his FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities based on factors beyond the control of the noncompliant person. BEM 233A, p. 4. Good cause includes the client being physically or mentally unfit for the job or activity as shown by medical evidence or other reliable information. BEM 233A, p. 5.

In this case, Claimant attended the November 5, 2013, triage and alleged that he could not participate in the PATH program because of his medical condition, which was aggravated when he was hit by a SMART bus on November 1, 2013. Because the November 1, 2013, accident occurred after the October 22, 2013, PATH orientation appointment, Claimant could not rely on that accident to establish good cause for his noncompliance with the PATH program.

However, at the triage, Claimant also provided the Department with two documents: (1) an October 25, 2013 note from his attending physician listing his diagnosis and his therapy, and (2) a November 5, 2013, note from his physical therapist identifying his physical therapy. If a client states he has new medical evidence or a new condition resulting in disability greater than 90 days after MRT has completed its review and issued a decision, the Department must gather new verification and send for an updated MRT decision. BEM 230A, p. 16. When an individual presents a doctor's note after the MRT decision but does not have new medical evidence or a new condition, the Department must send the DHS-518, Assessment for FIP Participation, to the doctor and request supporting medical evidence. BEM 230A, p. 16. If new medical evidence is not provided, the previous MRT decision stands. BEM 230A, p. 16.

Because Claimant brought in a medical note to the triage, which was dated prior to the November 1, 2013 bus incident, the Department was required to send the DHS-518 to the doctor and request additional medical evidence. However, there was no evidence that the Department did so. The evidence established that the Department provided Claimant with a DHS-49, Medical Examination Report for doctor complete. Although the Department pointed out that the completed document was not returned until December 11, 2013, after Claimant's FIP case closed on December 1, 2013, there is no due date listed on the DHS-49. See BAM 130 (July 2013), p. 3. Under the facts presented, the Department did not act in accordance with Department policy when it processed the medical note submitted by Claimant at the triage.

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

Because there was no evidence that Claimant was an aggrieved party concerning his FAP, MA or CDC cases, Claimant's hearing request concerning FAP, MA and CDC issues is DISMISSED.

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. Reinstate Claimant's FIP case effective December 1, 2013;
2. Remove any employment-related sanction applied to Claimant's FIP case on or about December 1, 2013;
3. Process the October 25, 2013, note from Claimant's doctor submitted at the triage in accordance with policy; and
4. Issue supplements to Claimant for any FIP benefits he was eligible to receive but did not from December 1, 2013, ongoing.



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

Date Signed: December 27, 2013

Date Mailed: December 27, 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;

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- 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

ACE/hj

cc:

