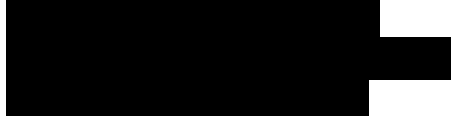


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:



Reg. No.: 2014-26045
Issue No.: 1038; 3007
Case No.: [REDACTED]
Hearing Date: March 6, 2014
County: Oakland #3

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 March 6, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included Family Independence Specialist, [REDACTED] and PATH Coordinator, [REDACTED].

ISSUE

Did the Department properly close Claimant's case for:

- | | |
|--|---|
| <input checked="" type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

Did the Department properly sanction Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

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 received: FIP and FAP benefits.
2. On March 1, 2014, the Department closed Claimant's FIP and FAP case due to non-compliance with employment related activities.

3. On January 21, 2014, the Department sent Claimant its decision.
4. On February 4, 2014, Claimant filed a hearing request, protesting 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), and Department of Human Services Reference Tables Manual (RFT).

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.

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.

In this case, the Claimant testified that she disagreed with the MRT's determination that she can work with limitations. The Claimant testified that she disagreed even with the limitations set for her by the MRT. The Claimant was informed that there is no provision in Departmental policy which allows for the Administrative Law Judge to revisit a determination of the MRT. Indeed, BEM 230A p. 20, provides that when a deferral is not granted, it is not a loss of benefits, termination or negative action. When a Claimant requests a hearing based on not being granted a deferral, the Department is to be sure to advise the Claimant at the pre-hearing conference and use the DHS-3050, Hearing Summary, to inform the Administrative Law Judge the action did not result in a loss of benefits or services. The Department should be sure the Claimant understands the time to file a hearing is once the Claimant receives a notice of case action for noncompliance.

The Claimant did not contest that she failed to attend her PATH appointment on January 13, 2014. The Claimant had also not contested that she failed to appear at her good cause/triage appointment scheduled for January 28, 2014. The Claimant testified that she was [REDACTED]. She testified that she was [REDACTED] while [REDACTED] and upon her return she was admitted into the [REDACTED]. She did therefore not check any of her mail in the month of January. Furthermore, the Claimant testified that she would have had too many transportation difficulties to participate in PATH. As such, the Administrative Law Judge concludes that the Department properly determined that the Claimant was non-compliance with employment related activities because it is not contested that she did not make her PATH appointment.

The proper mailing and addressing of a letter creates a presumption of receipt. That presumption 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). As the Claimant's address has remained the same all times relevant to this hearing, and as the Claimant did receive the DHS-1605, Notice of Case Action the evidence is insufficient to rebut the presumption that the Claimant also received the DHS-4785, PATH Appointment Notice and the DHS-2444, Notice of Noncompliance. Indeed, the Claimant does not contest that these documents were properly mailed to her, but rather the Claimant asserts that she did not see any of these documents because she was not at her residence in the month of January 2014.

Bridges Eligibility Manual (BEM) 233A (2013), pp. 10, 11, provide that the DHS-2444 Notice of Non-compliance state the date/dates of the Claimant's non-compliance and the reason why the Claimant was determined to be non-compliant. In this case, the DHS-2444, Notice of non-compliance, sent January 21, 2014, gives the Claimant notice that she was noncompliant as of January 19, 2014, because of "No Initial Contact with MWA." That notice scheduled a triage meeting for January 28, 2014. The Claimant failed to appear. However, the Department held a telephone triage with the Claimant on January 29, 2014. At that point in time the Claimant simply asserted that she cannot work and has applied and appealed for SSI. The MRT is already determined that the Claimant can work with limitations. There is no provision in Departmental policy that permits the Administrative Law Judge to revisit the decision of the MRT. Therefore, when the Department determined that the Claimant had no good cause for her noncompliance, the decision was proper and correct.

Bridges Eligibility Manual (BEM) 233A (2013) p. 8, provides that the penalty for noncompliance without good cause is FIP case closure. BEM 233B (2013) p. 3, provides that an FAP group member will be disqualified for noncompliance when that group member had no good cause for the noncompliance. The Administrative Law Judge therefore concludes that when the Department took action to close the Claimant's FIP case and sanction her FAP case, the Department was acting in accordance with its policy.

During the hearing it was unclear as to whether or not this was the Claimant's first instance of noncompliance. The Department personnel present at the hearing did review the Claimant's record, and reported to the Administrative Law Judge that this was the claimant's first noncompliance with employment related activities.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it taking action to close the Claimant's FIP and FAP cases.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**. The administrative law judge also concludes that this is the Claimant's first instance of noncompliance with employment related activities. As such, the Claimant's penalty for noncompliance for FIP shall be three months and the claimant shall be disqualified from FAP for one month. **SO ORDERED.**



Susanne E. Harris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/7/14

Date Mailed: 3/12/14

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 Claimant;
- 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.

2014-26045/SEH

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

SEH/tb

cc:

