

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-27376
Issue No(s): 1008, 3002, 6001
Case No.: [REDACTED]
Hearing Date: March 13, 2014
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], FIM and [REDACTED], APW.

ISSUE

1. Did the Department properly deny the claimant's FIP application of December 6, 2013 for failure to attend the PATH program?
2. Did the Department properly close claimant's FAP benefits for failing to provide income verification?
3. Did the Department properly deny claimant's CDC 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 recipient of FAP benefits.
2. Claimant was sent a verification checklist on [REDACTED] with a due date of [REDACTED].
3. Claimant did not return the verifications requested.
4. On [REDACTED], claimant's FAP benefits were terminated.

5. Claimant's FAP case was assessed one penalty for noncompliance with work related activities.
6. Claimant applied for FAP, FIP, and CDC on [REDACTED].
7. Claimant's FAP application was not processed because claimant was active for FAP benefits at the time.
8. Claimant was scheduled to attend a PATH orientation as required for the receipt of FIP benefits on [REDACTED]; the PATH orientation was scheduled for [REDACTED].
9. Claimant did not attend the PATH orientation.
10. Claimant argued at a pre-hearing conference that she never received the notice requiring claimant to attend PATH.
11. Upon examination of claimant's documentation at the prehearing conference, it was discovered that claimant had the PATH notice in her possession.
12. Claimant's application for FIP was denied on [REDACTED].
13. Claimant's application for CDC was denied for the period of [REDACTED] ongoing; this was allegedly because claimant was not employed, but the Department has not submitted a notice of case action showing why the CDC was denied.
14. Claimant requested a hearing on [REDACTED], protesting the denial of her FIP and CDC applications, and the closure of her FAP 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 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.

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.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858g; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10 and by Mich Admin Code, R 400.7001 through R 400.7049.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

CDC

Claimant applied for CDC on [REDACTED]. According to the submitted eligibility summary labeled as Department Exhibit 2, this application was denied for a period of [REDACTED] onward.

The Department has submitted no other evidence regarding this program. The Department alleged in testimony that the application was denied because claimant was not working; however, there are other need reasons for the CDC program besides employment. BEM 703.

The Department has failed to submit evidence as to whether other need reasons were considered, whether claimant did not need CDC, or whether claimant failed to offer proof of need.

As such, given the lack of evidence in this matter, the undersigned must hold that the Department has failed to meet its burden of proof in showing that the denial was proper; as such, the CDC application of [REDACTED] must be reprocessed.

FAP

According to Department testimony, claimant's FAP benefits were closed for failing to return verifications. On [REDACTED], claimant was sent a verification checklist with a due date of [REDACTED]. Claimant allegedly never returned verifications, and the case was closed on [REDACTED], according to the eligibility summary provided by the Department.

However, the Department failed to submit evidence that claimant had been provided with a notice of case action closing the FAP case. Claimant's correspondence history does not detail a specific case action notice being provided for the FAP program. Timely negative action notices are required to close FAP benefits when the case is not closing due to the end of a certification period. BAM 220, pg. 4.

This is doubly important, as a negative action may be deleted if requirements that led to the negative action are met before the negative action date. BAM 220, pg 12. Thus, assuming that claimant failed to submit the requested verifications to the Department in a timely manner, claimant still had an opportunity to comply before the negative action date—provided that the Department had actually given claimant a negative action date through timely notice.

The Department has failed to prove that claimant was given timely notice, and thus, the undersigned must hold that the closure of [REDACTED] was in error. As such, claimant's benefits must be reopened, and may not be closed until claimant has been given timely notice.

Finally, it must be noted that claimant has one penalty on her penalty counter with regard to FAP noncompliance.

The Department admitted at hearing that this was a mistake, and that the noncompliance penalty must be removed.

FIP

Noncompliance at FIP application is cause for FIP application denial. BEM 233A, pg. 7.

Claimant was provided a PATH appointment notice in response to her [REDACTED], [REDACTED] FIP application. This notice scheduled claimant for PATH orientation on [REDACTED].

Noncompliance includes failing to attend a PATH orientation, without good cause. BAM 233A.

The Department has proven claimant failed to attend the PATH program, and was given an opportunity to allege good cause. Claimant has failed to provide good cause for her failure to attend, and thus her application was properly denied.

Because the definition of noncompliance includes a finding of no good cause, it must follow that before an application denial for noncompliance can be effected, a good cause determination must be made. While this does not require a full triage, some sort of determination must be made.

The Department gave claimant a chance to provide good cause at the prehearing conference, which satisfies BEM 233A.

Claimant admitted under oath to not attending the PATH program. However, the claimant argued at the conference and at the hearing that this was because she failed to receive notice of the PATH orientation.

However, the Department testified credibly that claimant's documentation brought with her to the conference included the PATH orientation notice. Furthermore, the Department submitted evidence of a PATH notice, Department Exhibit 11. This notice contained claimant's correct address, and constitutes proof of mailing.

While claimant may not have realized that this was the notice, claimant did not explicitly receiving the notice. Additionally, claimant has provided no evidence to show that she did not receive the notice and rebut the Department's evidence that the notice was mailed.

Therefore, as the evidence shows claimant received the notice, and as claimant was given a chance to provide good cause for failing to attend orientation, and as claimant did not attend orientation, and did not have good cause, the undersigned holds that the Department properly denied claimant's FIP application of [REDACTED].

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

acted in accordance with Department policy when it denied claimant's FIP application of [REDACTED].


- did not act in accordance with Department policy when it applied a penalty to claimant's FAP case for FAP noncompliance.
- failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed claimant's FAP benefits and denied claimant's CDC application.

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
- REVERSED.
- AFFIRMED IN PART with respect to the FIP application denial and REVERSED IN PART with respect to the FAP closure and CDC denial.

- 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. Reopen claimant's FAP benefits retroactive to the date of negative action and remove any penalties placed on claimant's FAP case for FAP noncompliance with regard to the current matter. FAP benefits may not be closed unless the Department provides claimant with timely notice of the closure.
 2. Reprocess claimant's CDC application of [REDACTED].



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 3/21/2014

Date Mailed: 3/21/2014

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

RJC/hw

cc:

