

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

IN THE MATTER OF:

██████████
██
████████████████████

Reg. No.: 14-019534
Issue No.: 1008, 3001
Case No.: ██████████
Hearing Date: February 18, 2015
County: WAYNE-15 (GREYDALE)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 February 23, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████ Hearing Facilitator, and ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close the Claimant's FIP cash assistance case and impose a third sanction for Non-Compliance with the PATH program requirements without good cause?

Did the Department properly disqualify and remove the Claimant from her FAP group for Non-Compliance with the PATH program requirements without good cause?

FINDINGS OF FACT

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

1. The Claimant was assigned to attend the PATH program.
2. The Claimant advised the Department of her homeless status prior to the sending of the Notice of Non-Compliance with the PATH program requirements. The Claimant did not receive the Notice of Non-Compliance as it was sent to the wrong address. The Department conceded that the Claimant did not receive the Notice.

3. The Department closed/denied the Claimant's FIP cash assistance and imposed a third sanction permanently disqualifying the Claimant from the FIP program.
4. The Claimant was removed from her FAP group due to the Department's disqualification of the Claimant for Non-Compliance with the PATH program requirements. The Department conceded that the Claimant's removal was inappropriate due to the age of her dependent child and due to the fact that Claimant did not receive the Notice of Non-Compliance.
5. The Claimant requested a hearing on December 19, 2014 protesting the Department's actions regarding her FIP and 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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, 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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, in this case the Department conceded that it improperly closed/denied the Claimant's FIP benefits and imposed a third and permanent disqualification on the Claimant, and removed the Claimant from her FAP case due to Non-Compliance with PATH. The Claimant had previously advised the Department that she was homeless and the Department sent the Notice of Non-Compliance to the improper address. The Department also conceded that it improperly removed and disqualified the Claimant from her FAP group due to the age of the Claimant's child, and acknowledged that it was required to restore the Claimant to her FAP group and issue a FAP supplement to make her whole. BEM 233A and BEM 233B (7/1/14)

It is also noted that if the Claimant's application for FIP was denied, the Department cannot impose a sanction for Non-Compliance at application. If the Claimant had an

ongoing case, then the third sanction was also improper in light of the fact that the Claimant had no notice of the triage, and due to her homeless status would have established good cause due to circumstance which were unforeseeable. BEM 233A

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 removed the Claimant from her FAP group and closed and sanctioned the Claimant's FIP case for Non-Compliance without good cause.

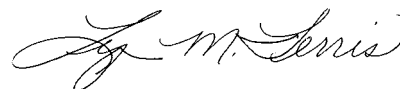
DECISION AND ORDER

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. The Department shall determine whether the Claimant had an open FIP case which was closed, or a FIP application denial, and proceed to either re-register the Claimant's FIP application or reinstate the Claimant's FIP case, and proceed with a supplement for FIP benefits, if any, are due based upon the Claimant's status and the time of closure/denial in accordance with Department policy.
2. The Department shall remove the third sanction (permanent disqualification) it imposed upon the closure/denial of the Claimant's FIP cash assistance case from its records and Claimant's case record.
3. The Department shall restore the Claimant to her FAP group from the date of her removal, and issue a FAP supplement to the Claimant for FAP benefits she is otherwise entitled to receive in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **2/24/2015**
Date Mailed: **2/24/2015**
LMF / tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

CC:

[REDACTED]