

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-005811
Issue No.: 1005, 3000
Case No.: [REDACTED]
Hearing Date: May 27, 2015
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on May 27, 2015, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist (ES) [REDACTED] and Hearing Facilitator [REDACTED]. At the beginning of this hearing it was determined that the Food Assistance Program issue had been resolved and that portion of this hearing request is dismissed.

ISSUE

Did the Department properly sanction Claimant's Family Independence Program beginning April 1, 2015?

FINDINGS OF FACT

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

1. On January 27, 2015 Claimant was sent a Fast Mandatory Notice (DHS-1536). The notice stated that Claimant was required to complete a Family Automated Screening Tool (FAST) within 30 days and a Family Self-Sufficiency Plan (FSSP) within 90 days. The notice also stated that failure to complete the FAST or FSSP would result in denial or termination of cash assistance.
2. On February 5, 2015, Claimant submitted a Medical Needs PATH (DHS-54-E) form. Claimant was subsequently deferred from PATH participation from January 7, 2015 until March 30, 2015.
3. On February 9, 2015, Claimant was approved for Family Independence Program benefits.
4. On February 26, 2015, Claimant was sent a Notice of Noncompliance (DHS-2444) which stated she failed to complete the FSSP and her Family Independence

Program would be closed for a minimum of 3 months. Claimant was also sent a Notice of Case Action (DHS-1605) which stated her Family Independence Program would close on April 1, 2015.

5. On April 8, 2015, Claimant submitted a hearing request.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) 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-.3131.

In this case Claimant was sent Fast Mandatory Notice (DHS-1536) on January 27, 2015 which stated she had 90 days to complete an FSSP. The 90 day deadline would have been April 27, 2015. Even though Claimant was subsequently deferred from PATH participation from January 1, 2015 to March 30, 2015, she was sent a Notice of Noncompliance (DHS-2444) which stated she was noncompliant for not completing the FSSP on February 26, 2015.

Bridges Eligibility Manual (BEM) 228 Family Automated Screening Tool and Family Self-Sufficiency Plan (2013) at pages 2 and 3 states:

DEPARTMENTAL POLICY

Compliance with the FSSP is a required activity for all WEIs. These requirements apply to FIP participants who are referred to PATH as well as those who are temporarily deferred. Non-compliance with the FSSP without good cause will result in penalties outlined in BEM 233A, 233B and 233C.

WHEN TO COMPLETE

Explain the purpose of the FAST and FSSP during the initial in-person or phone interview and determine whether the participant needs a paper copy of the DHS-595, FAST or additional help to complete the FAST. A FAST/FSSP notice, DHS-1535 or 1536 is automatically sent to applicants the night after the first run of eligibility (EDBC) for FIP. All participants listed on the notice are required to complete the FAST within 30 days and the FSSP within 90 days of the notice. The DHS-1535 is for deferred WEIs and the DHS-1536 is for referred WEIs.

The completion of the FAST is required once for each episode of cash assistance. The FSSP is complete when the participant, department and other service providers have agreed to the activities and the agreement date is entered in the Contract Agreement under the Personal Contract tab of the FSSP.

The FAST is required for the determination of good cause. When a participant is noncompliant with work related activities and a FAST has not been completed during the same episode of assistance, a FAST must also be completed, in order to determine good cause.

Send a DHS-2442, Notice of Employment-Related Appointment/Assignment or Home call, to the participant after the submission of the FAST and before the 90th day from the date the FAST/FSSP notice to arrange for the development of an FSSP for those not served by PATH.

Note: The completion of the FSSP requires action by all agencies involved in the case management of the participant. The participant cannot be considered noncompliant for the FSSP, if the agency fails to complete the FSSP mapping process.

Bridges Eligibility Manual (BEM) 233A Failure to Meet Employment and/or Self-Sufficiency-Related Requirements: FIP (2015), under Noncompliance, does list failure to complete a FAST and failure to develop a FSSP. There is also the following note:

Exception: Do not apply the three month, six month or lifetime penalty to ineligible caretakers, clients deferred for lack of child care and disqualified aliens. Failure to complete a FAST or FSSP results in closure due to failure to provide requested verification. Clients can reapply at any time.

BAM 228 requires that a deferred WEI, which Claimant was, be sent a DHS-1535. Claimant was only ever sent a DHS-1536 as though she was referred to PATH. Claimant was then sent a Notice of Noncompliance (DHS-2444) which stated she had failed to complete her FSSP 60 days before the deadline given in the DHS-1536 she was not even supposed to be sent. The Notice of Noncompliance (DHS-2444) also said she would be sanctioned for three months, contrary to 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 sanctioned Claimant's Family Independence Program beginning April 1, 2015.

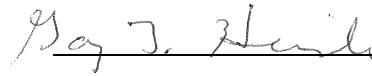
DECISION AND ORDER

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 Family Independence Program.

2. Process Claimant's Family Independence Program in accordance with Department policy.
3. Supplement Claimant any Family Independence Program benefit she did not receive due to this incorrect action.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **6/3/2015**

Date Mailed: **6/3/2015**

GH/las

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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:

