

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

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 15-013934
Issue No.: 1002
Case No.: ██████████
Hearing Date: September 21, 2015
County: Wayne-District 31

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 September 21, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Family Independence Specialist and ██████████, Family Independence Manager.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case on the basis that she failed to verify requested information?

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 an ongoing recipient of FIP benefits.
2. Claimant alleged a disability and sought deferral from participation in the PATH program.
3. On April 3, 2015, the Department sent Claimant a Medical Determination Verification Checklist instructing her to submit: a DHS-49 (Medical Examination Report); a DHS-49F (Medical Social Questionnaire); a DHS-1555 (Authorization to Release Protected Health Information); a DHS-49G (Activities of Daily Living); and a DHS-49WH (15 Year Work History Questionnaire) by April 13, 2015. (Exhibit A, p. 1)

4. On May 7, 2015, the Department sent Claimant a second Medical Determination Verification Checklist instructing her to submit: a DHS-49 (Medical Examination Report); a DHS-49F (Medical Social Questionnaire); a DHS-1555 (Authorization to Release Protected Health Information); a DHS-49G (Activities of Daily Living); and a DHS-49WH (15 Year Work History Questionnaire) by May 18, 2015. (Exhibit A, p. 2)
5. On May 15, 2015, the Department sent Claimant a Medical Determination Verification Checklist instructing her to submit a DHS-49WH (15 Year Work History Questionnaire) and proof of pending Social Security Administration disability benefits application or scheduled appointment to apply for benefits by May 26, 2015. (Exhibit A, p. 3)
6. On June 2, 2015, the Department sent Claimant a Notice of Case Action informing her that effective July 1, 2015, her FIP case would be closed on the basis that she failed to verify requested information. (Exhibit B)
7. On June 29, 2015, the Department reprinted copies of the DHS-1555, the DHS-49WH, and the DHS-54E and provided them to Claimant. (Exhibit C)
8. On June 30, 2015, Claimant submitted a DHS-1555, an unsigned DHS-49WH, and a note from one of her doctors. (Exhibit D)
9. On July 23, 2015, Claimant requested a hearing disputing the closure of her FIP case.

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.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (October 2014), p.1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. Although the client must obtain the required verification, the Department

must assist if a client needs and requests help. If neither the client nor the Department can obtain the verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to FIP cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, pp.6-7. The Department sends a negative action notice when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, pp.6- 7.

In this case, Claimant alleged a disability as grounds for deferral from participating in PATH. BEM 230A (January 2015), pp. 7-17. Pursuant to BEM 230A and BAM 815, the Department sent Claimant Medical Determination Verification Checklists (VCL) instructing her to complete the required forms and return to the Department by the specified dates. (Exhibit A). The Department testified that because it was informed that Claimant did not receive the first VCL it instructed Claimant to print the forms from her MY Bridges account and provide them to her doctor to complete. The Department representative present for the hearing stated that she also re-mailed the VCL and additional forms to Claimant on May 7, 2015, and May 15, 2015. The Department stated that because the requested information was not provided by the due date, it sent Claimant a Notice of Case Action on June 2, 2015, advising of the closure of her FIP case effective July 1, 2015, based on a failure to verify requested information. (Exhibit B).

The Department testified that it informed Claimant that if the requested information was provided prior to the negative action date of July 1, 2015, the documents would be processed and her case would remain open. The Department stated that on June 29, 2015, a lobby navigator printed out copies of the DHS-1555, the DHS-49WH, and the DHS-54E and provided them to Claimant. (Exhibit C). On June 30, 2015, Claimant returned the DHS-1555, a DHS-49WH that was unsigned and a note from her doctor. (Exhibit D). The Department stated that Claimant failed to provide the DHS-54E and the note she provided from her doctor did not contain required information. The Department further stated that the DHS-49G (Activities of Daily Living) and DHS-49F (Medical Social Questionnaire) were not provided and that the DHS-49WH was unsigned, thus, the documents provided by Claimant were insufficient and the case closure was effective July 1, 2015.

At the hearing, Claimant testified that she did not receive the Medical Determination VCLs mailed on April 3, 2015, and May 7, 2015. 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). Although the VCL were mailed to Claimant at her confirmed mailing address, Claimant credibly stated that she was

having trouble with receiving mail. Claimant stated that her mailbox is across the street from her house and that at the time, there was no number or address label on it to identify her residence. Claimant stated that she also did not receive other documents like bills from [REDACTED] and testified that she did not receive the Notice of Case Action informing her of the case closure. Claimant further stated that she reported the mail issues to the Department and to her post office. Therefore, Claimant has presented sufficient evidence to rebut the presumption that she received the VCLs.

With respect to the VCL dated on May 15, 2015, Claimant testified that she completed the forms and mailed them to the Department two days later. Claimant stated that she placed the forms in the blue mailbox on Michigan Ave and Inkster. Claimant stated that because she was informed by the Department that her documents were not received she went to the local office and confirmed that she was provided with copies of the DHS-1555, the DHS-49WH, and the DHS-54E, which she stated she provided on June 30, 2015. Claimant testified that it was impossible for her to submit a DHS-54E completed by her doctor prior to July 1, 2015, because she did not have an appointment until after the effective date of the case closure.

Upon further review, the VCL sent to Claimant on May 15, 2015, does not request the same information as the two previous checklists and does not instruct Claimant to provide the DHS-49G (Activities of Daily Living) and DHS-49F (Medical Social Questionnaire), which the Department stated were not returned and contributed to the case closure. Furthermore, contrary to the Department's initial testimony, all of the forms were not reprinted and provided to Claimant on June 29, 2015., so the Department failed to establish that Claimant received all of the documents that she was required to complete and submit prior to July 1, 2015.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Claimant's FIP case on the basis that she failed to verify requested information.

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 FIP case effective July 1, 2015;
2. Issue FIP supplements to Claimant from July 1, 2015, ongoing, in accordance with Department policy; and
3. Notify Claimant in writing of its decision.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/25/2015**

Date Mailed: **9/25/2015**

ZB / tlf

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]