

**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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MAHS Reg. No.: 15-017021
Issue No.: 1008
Agency Case No.: ██████████
Hearing Date: December 02, 2015
County: Macomb-District 20
(Warren)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Petitioner'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 December 2, 2015, from Detroit, Michigan. Petitioner and ██████████, Petitioner's fiancé, appeared and testified on Petitioner's behalf. The Department of Health and Human Services (Department) was represented by ██████ ██████, Family Independence Specialist.

ISSUE

Did the Department properly deny Petitioner's Family Independence Program (FIP) application or close her FIP case?

FINDINGS OF FACT

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

1. Petitioner is a recipient of Supplemental Security Income (SSI).
2. Petitioner lives with her fiancé and their minor child.
3. On an unknown date in August 2015, Petitioner applied for cash assistance.
4. On August 18, 2015, the Department approved the application and issued \$158 in FIP benefits to Petitioner for August 2015 (Exhibit B).
5. On an unknown date, the Department sent Petitioner an appointment notice requiring her fiancé to attend a PATH orientation.

6. Petitioner's fiancé did not attend the PATH orientation.
7. On September 4, 2015, the Department sent Petitioner a Notice of Case Action notifying her that her FIP application was denied (Exhibit C).
8. On September 14, 2015, Petitioner filed a request for hearing disputing the Department's actions.

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.

Petitioner requested a hearing concerning the denial of her FIP application/closure of her FIP case. It appears from the evidence presented that Petitioner's fiancé was receiving cash assistance under the State Disability Assistance (SDA) program for assisting his grandfather and, when the grandfather died, Petitioner applied for FIP assistance, purportedly for herself and her minor child.

At the hearing, Petitioner argued that she had applied for FIP for only herself and her minor child and did not understand why the Department included her fiancé in the FIP group. When an individual applies for cash assistance, the Department determines group composition and builds an eligibility determination group (EDG). BEM 209 (July 2013), p. 1. Cash assistance is available when the EDG meets all of the non-financial and financial requirements that are needed to determine eligibility and calculate benefit amounts. BEM 209 (July 2013), p. 1. Because her fiancé lives with Petitioner and is the father of her minor child, he is a mandatory member of the FIP EDG. BEM 210 (July 2015), p. 5. Therefore, the Department properly included him in the FIP group.

A client's FIP application cannot be approved until any mandatory PATH participant in the group completes the 21 day PATH application eligibility period (AEP) part of orientation. BEM 229 (July 2013), p. 1. Mandatory PATH clients are referred to PATH upon application for FIP or when a member add is requested. BEM 229, p. 4. Noncompliance by a work-eligible individual (WEI) while the application is pending results in group ineligibility and denial of the application. BEM 233A (May 2015), p. 7.

In contrast, when an **active** FIP recipient who is required to participate in PATH activities fails or refuses, without good cause, to participate in employment and/or self-sufficiency-related activities, the FIP EDG closes for not less than three calendar months for the individual's first occurrence of noncompliance, not less than six calendar months for the individual's second occurrence of noncompliance, and for lifetime for the individual's third occurrence of noncompliance. BEM 233A, pp. 2, 8.

In this case, the Department issued a single FIP payment based on a group size of one, presumably because Petitioner, as an SSI recipient, has a FIP EDG participation of Other Adult, and her assets and needs are not considered in determining eligibility for the FIP EDG, leaving only the minor child as a certified member of the FIP group. See BEM 210, p. 8. The Department subsequently sent Petitioner's fiancé to the PATH program, and when he failed to attend, it closed Petitioner's FIP case and sanctioned the case with closure for a six-month minimum.

Before terminating a WEI FIP recipient from the work participation program and closing the group's FIP case, the Department must schedule a triage meeting with the client to jointly discuss noncompliance and good cause. BEM 233A, p. 9. In this case, the Department testified that it scheduled a triage but presented no documentary evidence in support of its position. Petitioner could not verify whether notice of a triage had been received. In the absence of any evidence that a triage was scheduled, the Department did not act in accordance with Department policy to the extent that it closed Petitioner's FIP case.

Furthermore, there was no evidence by the Department that it was not aware that Petitioner's fiancé was in the household with Petitioner and the minor child at the time of application. From the evidence presented, the Department improperly issued the first FIP payment before Petitioner's fiancé was referred to the PATH program to complete the AEP. The September 4, 2015 Notice of Case Action, which references a "denial" of cash assistance for a period beginning September 16, 2015 and a sanction also beginning mid-month, suggests that the Department was processing Petitioner's application. The Department cannot sanction a client with case closure when an application is being processed. See BEM 233A, p. 7. Therefore, the Department did not act in accordance with Department policy when it sanctioned Petitioner's FIP case.

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 closed Petitioner's FIP case and sanctioned the case.

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. Remove the FIP sanction applied to Petitioner's fiancé's record for the period September 16, 2015 to February 29, 2016.
2. Reinstate Petitioner's FIP case effective September 16, 2015;
3. Reprocess the application;
4. Issue supplements to Petitioner for FIP benefits her group was eligible to receive from September 16, 2015 ongoing; and
5. Notify Petitioner in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **12/11/2015**

Date Mailed: **12/11/2015**

ACE / 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]