

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

IN THE MATTER OF:

██████████
██████████
██

Reg. No.: 15-003207
Issue No.: 1008; 4002
Case No.: ██████████
Hearing Date: April 16, 2015
County: MACOMB-36

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 16, 2015, from Detroit, Michigan. Participants on behalf of Claimant included ██████████ ██████████ and ██████████, her interpreter. Participants on behalf of the Department of Health and Human Services (Department) included ██████████ ██████████, Hearings Facilitator.

ISSUE

Did the Department properly close and sanction Claimant with regard to Family Independence Program (FIP) benefits?

Did the Department properly deny Claimant's State Disability Assistance (SDA) application?

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 a FIP recipient in Wayne County.
2. Claimant allegedly did not comply with work related activities.
3. Claimant was never sent a DHS-2444, Notice of Noncompliance.
4. No triage was ever held.

5. Claimant's FIP case was sanctioned for three months on December 11, 2014, and FIP benefits were closed effective January 1, 2015, with a sanction applied until March 31, 2015.
6. Claimant applied for SDA on January 8, 2015.
7. Claimant was sent a medical verification checklist on January 23, 2015.
8. Claimant did not receive this checklist.
9. On February 20, 2015, Claimant's application for SDA was denied.
10. On February 23, 2015, Claimant requested a hearing.

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 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 State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

With regard to the FIP sanction and case closure, the Department had no evidence or testimony that Claimant had ever been sent a notice of noncompliance or that a triage had been held. All parties agreed that Claimant's FIP benefits had been closed, and Claimant's case had been sanctioned.

Per BEM 233A (2014), no FIP case can be closed or sanctioned without first sending a DHS-2444, Notice of Noncompliance, and conducting a triage, regardless of whether the client attends the triage.

Because the Department failed to follow these procedural requirements, Claimant's FIP case was closed and sanctioned in error, and must be restored forthwith.

With regard to the SDA denial, the Department alleged that Claimant had failed to return any of the requested documents sought by a Medical Verification Checklist on January 23, 2015. While strictly speaking, a client is only required to return a DHS-1555, Authorization to release medical records, and a DHS-49F, Medical Social Questionnaire, neither of these documents were returned, thus making an application denial for failing to return these documents valid.

However, Claimant testified credibly that she had failed to receive the verification checklist in question.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

Claimant's demeanor and veracity added to Claimant's credibility. Furthermore, Claimant testified that she often does not receive her mail, as it is intercepted by a third party. Additionally, Claimant does not speak English, and appeared to be confused by the process in general. For these reasons, the undersigned believes that Claimant was credible when she testified that she did not receive the documents in question, and as such, cannot be held to blame for failing to return the requested verifications.

As Claimant did not receive the verification request, the denial of Claimant's SDA application was inappropriate.

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 and sanctioned Claimant's FIP benefit case and denied Claimant's SDA application.

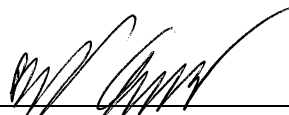
DECISION AND ORDER

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. Restore Claimant's FIP benefits retroactive to the date of negative action.

2. Remove any sanctions or negative actions placed on Claimant's FIP benefit case as a result of the above action.
3. Reprocess Claimant's SDA application of January 8, 2015.



Robert J. Chavez
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **4/20/2015**

Date Mailed: **4/20/2015**

RJC / 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 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]