

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

IN THE MATTER OF:

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

Reg. No.: 15-004724
Issue No.: 1001; 1002
Case No.: ██████████
Hearing Date: May 7, 2015
County: WAYNE-DISTRICT 17
(GREENFIELD/JOY)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 8, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████. Participants on behalf of the Department of Health and Human Services (Department or DHHS) included ██████████ Family Case Manager.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits effective 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. Claimant was an ongoing recipient of FIP benefits.
2. On March 12, 2015, the Department sent Claimant a Notice of Case Action notifying her that her State Disability Assistance (SDA) benefits were denied effective April 1, 2015, ongoing because she failed to return her verification of disability. See Exhibit 1, pp. 5-6. It should be noted that Claimant did not receive SDA assistance.
3. Effective April 1, 2015, it was not disputed that Claimant's FIP benefits closed.
4. On March 23, 2015, Claimant filed a hearing request, protesting the closure of her FIP benefits. See Exhibit 1, pp. 3-4.

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.

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

As a preliminary matter, this Administrative Law Judge (ALJ) would receive Claimant's Eligibility Summary subsequent to the hearing as Exhibit 1 for the record. However, this ALJ never received Claimant's Eligibility Summary subsequent to the hearing. Therefore, this ALJ issued this hearing decision without Claimant's Eligibility Summary being part of the evidence record.

At intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or Partnership. Accountability. Training. Hope. (PATH) for more than 90 days because of a mental or physical condition, the client should be deferred in its system. BEM 230A (January 2015), p. 12. Determination of a long-term disability is a three step process. BEM 230A, p. 12. The client must fully cooperate with both steps. BEM 230A, p. 12. For step 2, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a Medical Review Team (MRT) decision. BEM 230A, p. 12. The client must provide DHS with the required documentation such as the DHS-49 series, medical and/or educational documentation needed to define the disability. BEM 230A, pp. 12-13. If the client does not provide the requested verifications, the FIP should be placed into closure for failure to provide needed documentation. BEM 230A, p. 13.

Additionally, BAM 815 explains the process for obtaining medical evidence provided by the client and how it would be reviewed by MRT. See BAM 815 (January 2015), pp. 1-15. Specifically, BAM 815 indicates that Claimant must complete the Medical Social Questionnaire (DHS-49-F) and the Authorization to Release Protected Health Information (DHS-1555). See BAM 815, pp. 3-4 (client must complete appropriate sections of the DHS-1555 to authorize release of the medical information).

On November 20, 2014, the Department indicated that it sent Claimant a Verification Checklist (VCL) with a DHS-54E, Medical Needs – PATH form, which was due back by December 1, 2014. However, Claimant testified that she only received the VCL request, but not the DHS-54E form. Claimant testified that she had to obtain the form a couple of days later from her DHHS caseworker.

On December 4, 2014, the Department indicated that it only received the first page of the DHS-54E form and another medical document. See Exhibit 1, p. 1. As a result, the Department testified that it closed Claimant's benefits for failure to provide the verification. In response, Claimant testified that once she finally obtained the DHS-54E form, she would be unable to have the form completed by her doctor immediately because it was a holiday week (Thanksgiving). Before the VCL due date, Claimant testified she informed her DHHS caseworker of the delay and agreed that the doctor subsequently submitted it December 4, 2014. Nevertheless, on March 12, 2015, the Department sent Claimant a Notice of Case Action notifying her that her State Disability Assistance (SDA) benefits were denied effective April 1, 2015, ongoing because she failed to return her verification of disability. See Exhibit 1, pp. 5-6. However, an issue arises in Claimant's Notice of Case Action because the Department generated an improper notice.

A positive action is a DHHS action to approve an application or increase a benefit. BAM 220 (October 2014), p. 1. A negative action is a DHHS action to deny an application or to reduce, suspend or terminate a benefit. BAM 220, p. 1. Upon certification of eligibility results, the Department automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BAM 220, p. 1. The notice of case action is printed and mailed centrally from the consolidated print center. BAM 220, p. 1. There are two types of written notice: adequate and timely. BAM 220, p. 2. An adequate notice is a written notice sent to the client at the same time an action takes effect (not pending). BAM 220, p. 2. Timely notice is given for a negative action unless policy specifies adequate notice or no notice. BAM 220, p. 4. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220, p. 4. The action is pending to provide the client a chance to react to the proposed action. BAM 220, p. 4. A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested.

BAM 220, p. 2.

In the present case, the Department failed to provide Claimant with proper notice of her FIP case closure. A review of Claimant's Notice of Case Action indicates that her SDA

application was denied effective April 1, 2015, ongoing. See Exhibit 1, pp. 4-5. However, both parties acknowledged that Claimant's FIP benefits closed effective April 1, 2015, ongoing, which is a different cash program. Therefore, the Department did not provide Claimant with a proper notice of her case closure in accordance with Department policy. See BAM 220, pp. 1-4. Because the Department failed to provide Claimant with proper notice of her FIP case closure, the Department improperly closed her FIP benefits effective April 1, 2015. See BAM 220, pp. 1-4.

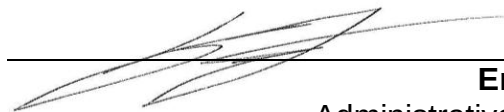
DECISION AND ORDER

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 improperly closed Claimant's FIP benefits effective April 1, 2015.

Accordingly, the Department's FIP 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 as of April 1, 2015;
2. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from April 1, 2015, ongoing; and
3. Notify Claimant of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/11/2015**

Date Mailed: **5/11/2015**

EJF/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]