

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 15-006200
Issue No.: 1001
Case No.: ██████████
Hearing Date: May 27, 2015
County: Wayne-District 15

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 May 27, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Eligibility Specialist.

ISSUE

Did the Department properly close Claimant's Family Independence Program (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. Claimant was an ongoing recipient of FIP benefits.
2. On January 2, 2015, the Department sent Claimant a FAST Referred Notice instructing her to complete the FAST within 30 days and the FSSP within 90 days of the notice. (Exhibit A)
3. On February 2, 2015, the Department sent Claimant a Notice of Case Action informing her that effective March 1, 2015, her FIP case would be closed on the basis that she failed to complete the required FAST within 30 days of the notice. (Exhibit C)
4. Claimant completed the FAST on February 6, 2015. (Exhibit D)

5. On April 9, 2015, Claimant submitted a hearing request 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.

As a condition of FIP eligibility, all work eligible individuals (WEIs) and non-work eligible individuals (non-WEIs) must engage in employment and/or self-sufficiency related activities and are required to participate in the development of the FSSP within 90 days of the notice. BEM 233A (October 2014), pp. 1-2.;BEM 228 (July 2013), pp. 1-2. The Department will use the ineligible grantee payment standard when the grantee is not a member of the program group. This status includes caretakers who are optional group members and choose not to be in the group. RFT 210 (December 2013), pp. 1-2. Ineligible caretakers are considered non-WEIs. BEM 228, p. 4. Although non-WEIs such as ineligible caretakers are not referred to PATH and are not required to participate in work related activities for a minimum number of hours, they must complete a FAST. BEM 228, pp. 3-54;BEM 230A (January 2015), p. 18. A failure to complete a FAST by the due date may result in case closure. BEM 228, p. 21;BEM 230A, p. 18.

In this case, the Department testified that because Claimant did not complete the FAST within 30 days of the FAST Referred Notice, it sent Claimant a Notice of Case Action informing her that her FIP case would close effective March 1, 2015, based on her failure to complete the required FAST. (Exhibit A; Exhibit B; Exhibit C). The Department confirmed that Claimant completed the FAST on February 6, 2015, however, because it was after 30 days and after the Notice of Case Action was issued, her FIP case closed.

At the hearing, Claimant confirmed that she received the FAST Referred Notice on or around January 2, 2015, and stated she is the child's guardian. Claimant testified that she misread the notice and thought that she had 90 days to complete both the FAST and the FSSP. Claimant testified that when she received the Notice of Case Action, she completed the FAST and contacted the Department.

The Department's action to close a case or terminate benefits is considered to be a negative action that requires timely notice sent to the client. BAM 220 (October 2014), pp. 1-2. A timely notice is mailed at least 11 days before the negative action takes effect. The action is pended to provide the client a chance to react to the proposed action. Timely notice means that the action taken by the Department is effective at least 12 calendar days following the date of the Department's action. BAM 220, p. 4, 11. In certain situations such as those in which the requirement is met before the negative action effective date, the negative action must be deleted. The Department is to enter the information the client provided to meet the requirement that caused the negative action. BAM 220, pp. 12-13.

Therefore, under the facts in this case and based on the evidence presented, because Claimant completed the FAST prior to the negative action effective date, the Department should have deleted the negative action and reactivated her FIP benefits.

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 Claimant's FIP case based on a failure to complete the FAST.

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 the date of closure, March 1, 2015;
2. Issue FIP supplements to Claimant from March 1, 2015, ongoing; and
3. Notify Claimant of its decision in writing.



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

Date Signed: **6/24/2015**

Date Mailed: **6/24/2015**

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]
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