

**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.: 15-010693
Issue No.: 1001
Case No.: ██████████
Hearing Date: July 27, 2015
County: Wayne-District 35

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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, an in-person hearing was held on July 27, 2015, from Redford, Michigan. Participants on behalf of Claimant included Claimant and ██████████, Claimant's mother. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator, and ██████████, Hearing Facilitator.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) case for failure 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 based on a January 2015 application.
2. On February 18, 2015, Claimant requested a deferral from participation in the PATH program by submitting to the Department a Medical Needs form, DHS-54A, completed by her doctor.
3. Claimant moved and her case was subsequently transferred from the Department's Kalkaska office to its Redford office.
4. On May 7, 2015, the Department sent Claimant a Medical Determination Verification Checklist (VCL) requesting that Claimant complete and submit by May

18, 2015, a DHS-49, medical examination report; DHS-49F, medical social questionnaire; DHS-1555, authorization to release protected health information; DHS-49G, activities of daily living; and DHS-49WH, 15-year work history questionnaire (Exhibit C).

5. On May 29, 2015, Claimant resubmitted the DHS-54A she had previously submitted on February 18, 2015.
6. On June 11, 2015, the Department sent Claimant a Notice of Case Action closing her FIP case effective July 1, 2015 (Exhibit B).
7. On June 18, 2015, Claimant filed a request for hearing disputing the Department's actions (Exhibit A).

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.

In this case, the June 11, 2015 Notice of Case Action advised Claimant that her FIP case was closing effective July 1, 2015, because she had no eligible children in her group and because she failed to verify or allow the Department to verify information necessary to determine eligibility for the FIP program. At the hearing, the Department acknowledged that Claimant had minor children in her home and explained that her FIP case had closed because she had failed to provide verification of her alleged disability.

It is noted that the evidence at the hearing established that prior to the hearing the Department had reinstated Claimant's FIP benefits, referred her to the PATH program, and requested an updated medical needs form, DHS-54E. Claimant believed that the Department had reinstated her case because it had not been properly processed. It is unclear from the evidence presented whether the Department was acknowledging an error in the manner in which it processed Claimant's case or was reinstating Claimant's case pending the hearing. See BAM 600 (April 2015), p. 24. Because Claimant credibly testified that the supervisor at the Redford office had advised her not to reapply for benefits, to the extent the Department was merely reinstating benefits pending the hearing, the Department's actions resulted in a delay in Claimant's right to reapply and

could have exposed her to a recoupment action in the event a decision was rendered in the Department's favor. See BAM 600, p. 26. However, in the instant case, as discussed below, the Department did not act in accordance with policy when it closed Claimant's FIP case.

As a general rule, unless temporarily deferred or engaged in activities that meet participation requirements, work eligible individuals are required as a condition of continued FIP eligibility to participate in a work participation program or other employment-related activity. BEM 230A (January 2015), p. 1; BEM 233A (May 2015), p. 1. However, the Department must temporarily defer from the work participation program a FIP applicant who has identified barriers that require further assessment or verification, such as clients with serious medical problems or disabilities, before a decision about a lengthier deferral is made. BEM 229 (July 2013), pp. 1-2.

Establishing a long-term disability involves a three-step process. BEM 230A, p. 12. First, at the Department's request, the client must provide verification of the disability showing that it will last longer than 90 calendar days, and a failure to do so results in the client having failed to establish a disability and being required to fully participate in the work participation program as a mandatory participant. BEM 230A, p. 12. Once a client provides verification of a disability lasting over 90 days, the client must then submit a completed medical packet to the Department to be forwarded to the Medical Review Team (MRT) for MRT's determination of whether the client is disabled and eligible for a deferral from the work participation program. BEM 230A, pp. 12-13. MRT determines whether a client has a long-term disability making them eligible for a deferral from participation in the work participation program. BEM 230A, pp. 9-12. If the client fails to provide the completed medical packet, the Department closes the client's FIP case for failure to provide needed medical documentation. BEM 230A, p. 10. If the medical packet is received, it is forwarded to MRT which determines if the client is eligible for a PATH deferral. BEM 230A, pp. 13-14; BAM 815, pp. 6-7.

In this case, the Department received a medical needs form identifying a disability. Therefore, Claimant satisfied the first step of establishing a long-term disability. The Department testified that, because it never received a completed medical packet from Claimant to send to MRT, on May 7, 2015, it sent Claimant the Medical VCL seeking a completed medical packet by May 18, 2015. Claimant acknowledged receiving the Medical VCL but testified that she had previously supplied the requested documents to the Department while she was in Kalkaska. Although the Department testified that the only documents on its electronic case management file pertaining to Claimant's deferral were the DHS-54A medical needs form completed by her doctor in February 2015 and a list of medication, Claimant credibly testified that she had completed the documents requested by the Kalkaska office and mailed them in. She further testified that after she received the May 7, 2015 VCL from her Redford worker she repeatedly contacted the worker to explain that she had difficulty obtaining the medical documents requested from her doctor whose office was more than two hours from her residence and seeking assistance and the worker never responded to her calls. Claimant also testified that she

was hospitalized during the period the documents were requested. While a client has the obligation to obtain requested documents, the Department must assist when the client requests assistance, particularly when the client indicates the existence of a disability that impairs their ability to gather verifications and information necessary to establish eligibility for benefits. BAM 130 (July 2015), p. 1, 3; BAM 815 (January 2015), pp. 3-4. By failing to assist Claimant in obtaining the required documentation, the Department did not act in accordance with Department policy.

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.

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. Continue the PATH deferral assessment; and
3. Issue supplements to Claimant for any FIP benefits she was eligible to receive but did not from July 1, 2015, ongoing.



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

Date Signed: **8/5/2015**

Date Mailed: **8/5/2015**

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]
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