

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-013398
Issue No.: 1008,1004
Case No.: [REDACTED]
Hearing Date: September 10, 2015
County: WAYNE-DISTRICT 55

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 hearing was held on September 10, 2015, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant. Participants on behalf of the Department of Health and Human Services (Department) included [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly issue the Claimant the correct FIP benefits after her completion of the 21-day FIP application eligibility period?

Did the Department properly correct the penalty counter for PATH noncompliance for the correct dates and number of alleged noncompliance sanctions?

Did the Department register and process the Claimant's [REDACTED] FIP application to determine FIP eligibility?

FINDINGS OF FACT

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

1. The Claimant applied for FIP cash assistance on [REDACTED], and the application was denied due to a lifetime sanctions due to a third noncompliance with the PATH Program work related requirements.
2. Subsequently the application was processed as the Department corrected the penalty counter to show only 2 PATH program noncompliances instead of 3.

3. The Claimant filed a FIP application on [REDACTED], which was never registered or processed.
4. The Claimant completed the 21 day PATH application eligibility period, but only received FIP benefits for August 2015.
5. The Claimant requested a hearing on [REDACTED], protesting the failure of the Department to correct a PATH noncompliance entry error.

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 Department admitted double entry error of a PATH noncompliance, causing a lifetime sanction to be imposed. The Department conceded that the prior caseworker at another District Office improperly double entered a noncompliance. At present, the Department testified that the Claimant has only 2 noncompliance sanctions with the PATH program showing in the system. The Department did not provide a noncompliance counter from the Bridges system, thus the second noncompliance date could not be determined. The Claimant also applied for FIP on [REDACTED], which application was not processed due to an error which caused the Claimant to be ineligible for FIP due to three noncompliances. The Department testified that the Claimant's former caseworker located in another District Office noted in a case note that the Caseworker processed a help desk ticket on [REDACTED] to remove a sanction. The Department in this case did not produce any evidence or proof that the prior help desk ticket was ever resolved, or that the prior application for [REDACTED] was processed. The Claimant credibly testified that her previous caseworker attempted to correct the double sanction entry and requested a help desk ticket, which was never resolved. The Claimant's current caseworker was able to correct the double entry and the [REDACTED] application was processed and Claimant was assigned to attend PATH. The Department corrected the sanction count and put in the sanction as of [REDACTED]

At the hearing the Claimant did not receive FIP benefits for June 2015 or July 2015 even though she had completed her 21-day PATH application eligibility period. It was unclear from the record why the Claimant only received FIP for August 2015 and not for July 2015 or part of June 2015. BEM 229 provides:

PATH Application Eligibility Period

Completion of the 21 day PATH application eligibility period (AEP) part of orientation which is an eligibility requirement for approval of the FIP application. PATH participants must complete all of the following in order for their FIP application to be approved:

- Begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice.
- Complete PATH AEP requirements.
- Continue to participate in PATH after completion of the 21 day AEP. BEM 229 (October 1,2015) p.1

Based upon the evidence presented at the hearing, it could not be determined why the Claimant only received FIP benefits for August 2015. Thus, the Department did not meet its burden of proof to establish that the Claimant received all the FIP benefits she was otherwise entitled to receive in accordance with Department policy. The undersigned also must note that any reference on the record that the Claimant was entitled to FIP back to the application date was in error, based upon the above policy in BEM 229, as the Claimant had to first complete the 21-day PATH application eligibility period. Also based upon the evidence presented, no such determination could be made as the date of application eligibility when the Claimant completed her 21-day PATH attendance was not provided by the Department at the hearing.

Finally, it was unclear why the [REDACTED] application was never processed. Because the application was not processed, the Claimant's hearing request was timely as the hearing arose from a failure to process. At the hearing, the Department was requested to determine whether the Claimant's [REDACTED] application was ever denied by Notice of Case Action. The Department found no notice denying this application. The Department found a [REDACTED] application that had not been processed in the Bridges system. The system simply noted "completed". The Claimant provided the T number for her [REDACTED] 4 application ([REDACTED]). Based upon this evidence the Department did not meet its burden of proof to demonstrate that it processed the [REDACTED] application and thus must now register and process the application.

At the hearing, the Department was questioned about which of the sanctions was removed and why the sanction removal date was [REDACTED]. The Department could

not answer why this date was picked. It appeared from the Department's testimony, after looking at the sanction counter, that there were still two penalties in March 2014 which counted for the first and second sanctions. The Department could not explain the discrepancy in the penalty counter, both noncompliance sanctions appeared on the same date. The Department was to send the penalty counter to the undersigned after the hearing, however, no penalty counter was provided.

BAM 300 requires that an employment packet be maintained in the case file an employment packet that contains:

1. Work participation program penalty tracking information. Administrative law judges (ALJs) will require verification of all prior penalties before giving the next higher penalty. Example: The ALJ will require verification of both prior three month penalties before giving the individual a 12 month penalty. BAM 300 (July 1, 2015) p. 7

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it corrected the penalty counter and why the Claimant was only entitled to FIP benefits as of August 2015.

The Department also failed to satisfy its burden of showing that it acted Department acted in accordance with Department policy when it failed to register and process the Claimant's [REDACTED] FIP application to determine her FIP eligibility.

DECISION AND ORDER

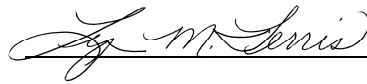
Accordingly, the Department's decision is

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. The Department shall correct the PATH noncompliance penalty counter to correctly reflect the correct number of penalties and the correct dates the penalty sanctions were imposed. The Department shall review the case history, the case file and the Bridges system to determine the correct dates.

2. The Department shall review the Claimant's current FIP benefit issuance and determine if the Claimant is entitled to receive a FIP supplement based on the completion date by Claimant of her 21-day PATH application eligibility period.
3. The Department shall register and process the Claimant's [REDACTED] FIP application and determine Claimant's eligibility. If after correction of the noncompliance penalty dates, it is determined that the Claimant is eligible the Department shall determine if a FIP supplement is otherwise appropriate in accordance with Department policy.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **9/16/2015**

Date Mailed: **9/16/2015**

LMF / hw

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:

