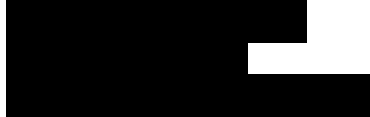


**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. No.: 15-017793
Issue No.: 1010
Agency Case No.: [REDACTED]
Hearing Date: November 19, 2015
County: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Gary Heisler

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 November 19, 2015, from Lansing, Michigan. Participants on behalf of Claimant included herself. Participants on behalf of the Department of Health and Human Services (Department) included PATH Coordinator [REDACTED]

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) on October 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. On December 31, 2014, Claimant reached the 60 month federal time limit for Family Independence Program (FIP) benefits. Claimant has been deferred from closure of her Family Independence Program (FIP) due to being the single parent of a disabled child.
2. On August 19, 2015, Claimant was sent a Medical Determination Verification Checklist (DHS-3503-MRT) form and a Medical Needs - PATH (DHS-54-E) form. The required medical verifications were due on August 31, 2015.
3. On September 9, 2015, the Department had not received the required medical verification and Claimant was sent a Notice of Case Action (DHHS-1605) which stated her Family Independence Program (FIP) would close beginning October 1, 2015 due to exceeding the federal time limits.

4. On September 18, 2015, Claimant submitted a hearing request.
5. On September 25, 2015, the Department received the Medical Needs - PATH (DHHS-54-E) completed by Dr. Nandi.
6. On October 1, 2015, the Department received an additional statement from Dr. Nandi.

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.

Bridges Eligibility Manual (BEM) 234 FIP Time Limits (7-1-2013) provides the Department's policy on time limits and provides the following:

Federal Time Limit Exception

Michigan will provide an exception to the federal 60 month time limit eligibility criteria and state fund the FIP eligibility determination group (EDG) for individuals that met the following criteria on Jan. 9, 2013:

An approved/active ongoing FIP EDG **and**

Who was exempt from participation in the Partnership Accountability Training Hope (PATH) program for: Domestic violence.

Age 65 or older.

Establishing incapacity.

Incapacitated more than 90 days.

Care of a spouse with disabilities.

Care of a child with disabilities.

The exception continues as long as:

The individual's ongoing FIP EDG reaches 60 TANF federal months **and** the individual remains one of the above employment deferral reasons. In these instances, the FIP EDG will become state funded after the 60th month.

The individual, at application, is approved as **any** of the above employment deferral reasons. In these instances, the FIP EDG will be state funded.

The exception ends once one of the above individuals **no** longer qualifies for one of the above employment deferral reasons or they **no** longer meet other standard eligibility criteria for FIP. The FIP EDG will close or the application will be denied.

When Claimant reached the 60 month time limit on December 31, 2014, she continued to receive FIP because she met the exception criteria listed above. On September 9, 2015, the Department had not received the required medical verification to determine if Claimant still met the exception criteria. In accordance with Bridges Administration Manual (BAM) 130 Verification and Collateral Contacts (7-1-2015) page 7 the Department was correct to issue the negative action notice. The September 9, 2015 Notice of Case Action (DHHS-1605) specified that Claimant's Family Independence Program (FIP) would close October 1, 2015 and that she would receive both payments for September 2015.

Bridges Administration Manual (BAM) 220 Case Actions, at pages 12 & 13 states:

DELETING A NEGATIVE ACTION

All Programs

Negative actions must be deleted from Bridges in some situations.

Hearing Requests

Record the hearing request date and complete all required information on the Hearings Restore Benefits screen in Bridges. Then follow Additional Steps to Delete a Negative Action in this section; see BAM 600, Hearings.

Requirement Met Before Negative Action Effective Date

Enter the information the client provided to meet the requirement that caused the negative action, using the appropriate Bridges screens. Then follow Additional Steps to Delete a Negative Action in this section.

In this case the negative action effective date is October 1, 2015 because Claimant received all of her Family Independence Program (FIP) benefits for the month of September. The Department received a Medical Needs - PATH (DHHS-54-E) on September 25, 2015.

The Medical Needs - PATH (DHHS-54-E) form the Department sent out is at pages 5 & 6. The form does not specify a patient for whom the required medical verification is requested. The form does have section A marked for a diagnosis. The form also has section H marked and the question "Is child able to be in licensed daycare up to 27 hpw while mother looks for employment?"

The Medical Needs - PATH (DHHS-54-E) received by the Department is at pages 9 & 10. [REDACTED] listed the patient as [REDACTED], who is one of Claimant's children. The Doctor listed speech delay and delayed development as diagnoses in section A. In section H the Doctor wrote "Mom is needed to be with [REDACTED] 24 hrs a day, 7 days a week. She is needed to provide care as she cannot go to daycare." There is a note written on the form by someone from the Department "Find out why she can't be in daycare." That appears to be the reason [REDACTED] was contacted by the Department and submitted the additional statement on October 1, 2015 which is at page 11.

In the additional statement, [REDACTED] wrote that Claimant has two special needs children and that Claimant reports PT and OT four separate days a week for the two. The Doctor also wrote "She can still work if she has time beyond these appointments, and she has a sitter who is willing to care for the 2 kids."

BEM 234 provides that "care of a child with disabilities" is a valid exception to the federal time limits. Nothing in BEM 234 addresses an aspect of whether care for the disabled child could be provided by someone other than the FIP grantee. The requirement provided by the plain language in the policy is confined to whether the FIP grantee is providing care to a disabled child. The September 25, 2015 Medical Needs - PATH (DHHS-54-E) from [REDACTED] satisfies the exception criteria in BEM 234. The September 25, 2015 Medical Needs - PATH (DHHS-54-E) from [REDACTED] also satisfies the requirements of BAM 220 for deleting the September 9, 2015 negative action.

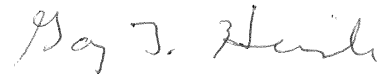
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Claimant's Family Independence Program (FIP) on October 1, 2015.

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 Family Independence Program (FIP) and process in accordance with Department policy.
2. Issue Claimant a current notice of her Family Independence Program (FIP) eligibility beginning October 1, 2015.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **11/25/2015**

GH/nr

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:

