



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: April 7, 2016
MAHS Docket No.: 16-001835
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Following Petitioner'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 March 28, 2016, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Medical Contact worker.

ISSUE

Did the Department properly close/deny the Petitioner's Family Independence Program (FIP) application?

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 Petitioner applied for FIP cash assistance on August 13, 2015.
2. The Department issued a Benefit Notice on January 27, 2016, indicating that the FIP grant would go down to \$ [REDACTED] as of November 1, 2015. The Notice was completed manually and on the second page stated "The verification DHS-54E was not completed and returned." Hearing Packet, p. 9, Exhibit 2.
3. The Petitioner was assigned to attend Partnership.Accountability.Training.HOPE. (PATH). Prior to the PATH appointment (date unknown), the Petitioner presented a typed note from her doctor that she cannot work.

4. A Verification Checklist (VCL) and a DHS-54E, Medical Needs Form, were mailed to Petitioner on December 9, 2015, with a due date of December 21, 2015. Exhibit 1.
5. The Petitioner did not return the DHS-54E.
6. The Petitioner requested a hearing on February 2, 2016.

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 Petitioner was assigned to PATH. It is unclear from the evidence presented when she was assigned to attend PATH as no PATH Appointment Notice was presented. It is also unclear whether at any time the Petitioner had been deferred. It is also unclear whether the Petitioner received FIP benefits.

The Petitioner provided a letter from her doctor stating she could not work. The letter was not presented in evidence but was received prior to a VCL request sent by the Department to Petitioner requesting Petitioner have a Medical Needs Form completed by her doctor. Exhibit 1. The Verification Form DHS-54E was due on December 21, 2015, and was not returned by Petitioner.

The Department next issued a Benefit Notice dated January 27, 2016, that indicates that the FIP benefits were reduced to [REDACTED] and the second page of the Notice indicated that the verification DHS-54E was not completed and returned as the reason for closure. Unfortunately, at the hearing, the undersigned thought the second page of the Benefit Notice was not provided as the second page that was provided was the completed hearing request. Normally, the second page of the Notice would not have a completed hearing request at the bottom. Nonetheless, the second page was provided, and the reason for the denial/closure was due to failure to return the verification form DHS-54E. At the hearing, the undersigned mistakenly assumed that the second page of the Notice was the hearing request, not part of the Benefit Notice admitted as Exhibit 2. It is also unclear whether the Department considered this deferral a short-term incapacity, which would be expected to last less than 3 months, or a long-term incapacity expecting to last more than 90 days. BEM 230A (October 1, 2015), p 11.

It does appear that the VCL and the Medical Needs Form were sent to the Petitioner at the correct address. The Petitioner did not recall whether she received the VCL but thought that her doctor's letter was sufficient. The Petitioner credibly testified that she has a brain injury and did not recall if she received the VCL and Medical Needs Form. However, because the Medical Needs Form was not received by the Department, the Department incorrectly closed/denied the Petitioner's case under these circumstances.

Department policy found in BEM 230A provides the requirements for processing for PATH deferrals and a series of steps which are to be followed:

Step One: Establishment of Disability

Once a client claims a disability he/she must provide MDHHS with verification of the disability when requested. The verification must indicate that the disability will last longer than 90 calendar days. **If the verification is not returned, a disability is not established. The client will be required to fully participate in PATH as a mandatory participant;** see Verification Sources in this item. BEM 230A, p. 12. Emphasis supplied.

When the Department did not receive the DHS-54E Form, they improperly denied/closed the FIP case; it is unclear as to whether the FIP application was denied or the FIP case closed. In order to receive a deferral from the PATH program, the Petitioner had to return a Medical Needs Form completed by her doctor indicating that she has limitations that make her unable to work. Exhibit 2. **Based upon policy referenced above, the Department was required to reassign the Petitioner to attend PATH rather than close the case or deny the application.**

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 comply with Department policy when it closed/denied the Petitioner's FIP case/application when she failed to return the verification DHS-54E to support her deferral.

DECISION AND ORDER

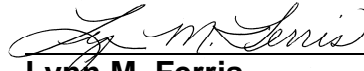
Accordingly, the Department's decision is **REVERSED**.

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 reinstate/reregister as appropriate the Petitioner's FIP case and process the case accordingly consistent with Department policy.

2. The Department shall issue the Petitioner an FIP supplement if she had been receiving FIP benefits prior to the recent closure/denial if the Petitioner is otherwise eligible in accordance with Department policy.

LMF/jaf



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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

DHHS

[REDACTED]

Petitioner

[REDACTED]

cc:

[REDACTED]