



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: April 22, 2016
MAHS Docket No.: 16-003111

[REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 April 13, 2016, from Lansing, Michigan. The Petitioner was represented by himself and his ex-wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED] [REDACTED], Family Independence Specialist and [REDACTED] [REDACTED], Family Independence Manager.

ISSUE

Did the Department properly close the Claimant Family Independence Program (FIP) case and reduce his Food Assistance Program (FAP) case because he failed to participate in the PATH program?

FINDINGS OF FACT

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

Did the Department properly close the Petitioner’s PATH and Food Assistance Program (FAP) cases due to the Petitioner’s failure to provide required verification?

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 was a recipient of PATH and FAP.

2. On January 8, 2016, the Medical Review Team (MRT) determined that the Petitioner could participate in PATH after a review of the medical records. Department Exhibit 124-147.
3. On February 2, 2016, the Department sent the Petitioner a PATH Appointment Notice, DHS-4785, for an appointment on February 9, 2016. Department Exhibit 148.
4. On February 9, 2016, the Petitioner attended PATH, but they determined that he was not an appropriate referral and would not work with him. Therefore, DHHS would have to work with him.
5. On February 11, 2016, the Department sent the Petitioner a Medical Determination Verification Checklist, DHS 3503-MRT, for the Petitioner to submit a completed Authorization to Release Protected Health Information, DHS 1555, that was due February 22, 2016 and an appointment with DHHS on February 23, 2016 at 1:30 p.m. Department 149-150.
6. On February 24, 2016, the Department sent the Petitioner a Notice of Noncompliance, DHS-2444, because he failed to complete FSSP, requiring him to attend a triage meeting on March 3, 2016. This was his 1st non-compliance and his FIP case would be closed for 3 months and his FAP benefits would be decreased for one month or until compliance because he would be disqualified. Department Exhibit 151-152.
7. On February 24, 2016, the Department sent the Petitioner a notice of his FIP case closure due to non-participation in the PATH program. Department Exhibit 153-156.
8. On March 3, 2016, the Petitioner attended his PATH triage meeting. He told them that he had a seizure on the day of the meeting, but a determination was made that he did not have good cause for not participating in PATH. Department Exhibit 12.
9. On March 10, 2016, the Petitioner filed a hearing request, protesting 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.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, the Petitioner was a recipient of PATH and FAP. On January 8, 2016, the Medical Review Team (MRT) determined that the Petitioner could participate in PATH after a review of the medical records. Department Exhibit 124-147. On February 2, 2016, the Department sent the Petitioner a PATH Appointment Notice, DHS-4785, for an appointment on February 9, 2016. Department Exhibit 148. On February 9, 2016, the Petitioner attended PATH, but they determined that he was not an appropriate referral and would not work with him. Therefore, DHHS would have to work with him.

On February 11, 2016, the Department sent the Petitioner a Medical Determination Verification Checklist, DHS 3503-MRT, for the Petitioner to submit a completed Authorization to Release Protected Health Information, DHS 1555, that was due February 22, 2016 and an appointment with DHHS on February 23, 2016 at 1:30 p.m. Department 149-150. On February 24, 2016, the Department sent the Petitioner a Notice of Noncompliance, DHS-2444, because he failed to complete FSSP, requiring him to attend a triage meeting on March 3, 2016. This was his 1st non-compliance and his FIP case would be closed for 3 months and his FAP benefits would be decreased for one month or until compliance because he would be disqualified. Department Exhibit 151-152. On February 24, 2016, the Department sent the Petitioner a notice of his FIP case closure due to non-participation in the PATH program. Department Exhibit 153-156.

On March 3, 2016, the Petitioner attended his PATH triage meeting. He told them that he had a seizure on the day of the meeting, but a determination was made that he did not have good cause for not participating in PATH. Department Exhibit 12. On March 10, 2016, the Petitioner filed a hearing request, protesting the Department's actions. BEM 229, 230A, 230B, 233A, 233B, and 270.

During the hearing, the Department Caseworker testified that she told the Petitioner on the phone on February 11, 2016 that he had to attend the meeting on February 23, 2016 at 1:30 p.m. The Petitioner stated that he had a seizure that started from the night before and lasted through the next day, which was the day of the meeting. The seizure was confirmed by his ex-wife, who attended the hearing with the Petitioner. The Petitioner did attend the triage and this hearing. The Department found

that the Petitioner did not have good cause even though he stated that he had a seizure and his medical documentation also cites his seizure activity.

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 there were barriers to the Claimant's attendance that were beyond his control. The Department did not act in accordance with Department policy when it failed to give the Petitioner another opportunity to participate because he had a seizure on the day of the appointment. Therefore, this Administrative Law Judge finds that the Claimant had good cause for not attending his meeting due to his seizure, and the sanction on his FIP and FAP benefits is reversed.

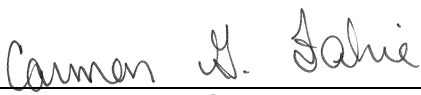
DECISION AND ORDER

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. Delete the negative action from the Claimant's benefits case file for FIP and FAP.
2. Initiate a redetermination of the Petitioner's eligibility for FAP and PATH retroactive to April 1, 2016 by sending a new PATH Appointment Notice, DHS-4785, for an appointment to participate with PATH.
3. Provide the Petitioner with written notification of the Department's revised eligibility determination.
4. Issue the Petitioner any retroactive benefits she/he may be eligible to receive, if any.

CF/db



Carmen G. Fahie
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]
[REDACTED]
[REDACTED] [REDACTED]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED] [REDACTED]