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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: June 7, 2017
MAHS Docket No.: 17-004693
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 ██████████ ██████████ from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by ██████████, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) benefits effective ██████████?

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 ██████████, Petitioner applied for FIP benefits and she reported that she was disabled and indicated her address at the time was ██████████ ██████████ "address 1"). [Exhibit A, p. 1]
2. Petitioner's current mailing address is ██████████ "address 2").
3. Prior to Petitioner's application, she had previously provided a Medical Needs - Partnership. Accountability. Training. Hope. (PATH) (DHS-54-E) form that stated she is unable to work "indefinite." [Exhibit A, pp. 6-7.]

4. Petitioner was deferred from PATH participation due to alleging a long-term incapacity.
5. Petitioner's FIP application was approved for [REDACTED] benefits; but with [REDACTED], benefits were pending the for the Disability Determination Service (DDS)/Medical Review Team (MRT) packet establishing a long-term incapacity. [Exhibit A, p. 1.]
6. On [REDACTED], the Department sent Petitioner a Medical Determination Verification Checklist ("medical packet") to Petitioner's address 1 and the medical packet was due back by [REDACTED]. The medical packet included the following documentation to be completed by the due date: (i) Medical – Social Questionnaire (DHS-49-F); (ii) Authorization to Release Protected Health Information (DHS-1555); (iii) Reimbursement Authorization (DHS-3975); and (iv) Verification of Application or Appeal for Supplemental Security Income (SSI)/Retirement, Survivors, and Disability Insurance (RSDI). [Exhibit A, pp. 8-19.]
7. On [REDACTED], the Department completed a telephone interview with Petitioner in which the case comments stated that the pending DDS/MRT for continued PATH deferral was discussed. [Exhibit A, p. 1.]
8. Petitioner failed to submit the requested medical packet before the due date.
9. Petitioner alleged that she never received the original medical packet at address 1 and that she eventually received it upon requesting a second copy from the Department on or about [REDACTED].
10. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FIP benefits were closed effective [REDACTED], because she failed to comply with the verification requirements. [Exhibit A, pp. 20-23.]
11. On [REDACTED], Petitioner filed a hearing request, protesting the Department's action. [Exhibit A, pp. 2-4.]

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 State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

Preliminary matter

In this case, Petitioner filed a hearing request, protesting the FIP and SDA benefits. [Exhibit A, pp. 2-4.] During the hearing, though, Petitioner clarified that she was only disputing the closure of her FIP benefits, not SDA benefits, effective [REDACTED]. As such, Petitioner's SDA hearing request is DISMISSED. BAM 600 (October 2016), pp. 1-6.

FIP benefits

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (October 2016), p. 9. This includes completion of necessary forms. BAM 105, p. 9.

For long-term incapacity, at intake, redetermination or anytime during an ongoing benefit period, when an individual claims to be disabled or indicates an inability to participate in work or PATH for more than 90 days because of a mental or physical condition, the client should be deferred in the Department's system (Bridges). BEM 230A (October 2015), p. 11.

Determination of a long-term incapacity is a three step process. BEM 230A, p. 12.

For step one, once a client claims a disability he/she must provide MDHHS with verification of the disability when requested. BEM 230A, p. 12. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 12. It should be noted that for this case, step one has been completed.

For step two, for verified disabilities over 90 days, see BAM 815, Medical Determination and Disability Determination Service, for the policy requirements in obtaining a medical certification from DDS. BEM 230A, p. 12. If the client does not provide the requested verifications, the FIP should be placed into closure for failure to provide needed documentation. BEM 230A p. 12. For verified disabilities over 90 days, the client must apply for benefits through the Social Security Administration (SSA) before step three. BEM 230A, p. 12. See BAM 815, Medical Determination and Disability Determination Service and BEM 270, Pursuit of Benefits. BEM 230A, p. 12.

Additionally, BAM 815 explains the process for obtaining medical evidence provided by the client and how it would be reviewed by the Disability Determination Service (DDS). See BAM 815 (January 2017), pp. 1-11.

For FIP benefits, at application or medical review if requested mandatory forms are not returned, the DDS cannot make a determination on the severity of the disability. BAM

815, p. 2. The Department denies the application or place an approved program into negative action for failure to provide required verifications. BAM 815, p. 2.

The Department provides a multi-step process for medical determination applications. See BAM 815, pp. 2-10. For step 6, the Department completes a DHS-3503-MRT, Medical Determination Verification Checklist, indicating the following verifications required:

- DHS-49-F.
- DHS-1555.
- DHS-3975, Reimbursement Authorization (for state-funded FIP/SDA only).
- Verification of SSA application/appeal.

BAM 815, p. 4. A further review of the steps indicated that the Medical-Social Questionnaire (DHS-49-F) and Authorization to Release Protected Health Information (DHS-1555) are mandatory forms that must be completed. BAM 815, pp. 2-6.

Finally, for FIP benefits, after a client has verified a disability lasting longer than 90 calendar days, clients must apply for or appeal benefits through SSA. BAM 815, p. 1. This is a condition of program eligibility. BAM 815, p. 1.

In the present case, the Department argued that Petitioner failed step 2 of the long-term incapacity process because she failed to submit the medical packet by the due date; and therefore, the Department placed her FIP benefits into closure. BEM 230A p. 12 and BAM 815, p. 2.

In response, Petitioner argued that she never received the original medical packet dated [REDACTED]. On or about [REDACTED], Petitioner testified that when she did not receive her FIP benefits for [REDACTED], she contacted her caseworker and discovered the reason why her benefits closed. She testified that the caseworker resent her a copy of the medical packet dated [REDACTED]. She testified that address 1 was the proper address at the time on the medical packet. She testified that she was being evicted from her home at the time.

The Department indicated that she did eventually submit the medical packet documents, but it was after the due date. The Department testified that the medical packet was sent to Petitioner via central print and was not returned back as undeliverable from the United States Postal Service (USPS).

Based on the foregoing information and evidence, the Department properly closed the Petitioner's FIP benefits effective [REDACTED], in accordance with Department policy.

First, Petitioner argued that she never received the original medical packet in the mail. The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976). In this case, the

undersigned Administrative Law Judge (ALJ) finds that Department provided sufficient evidence to show that it sent Petitioner the medical packet to her proper address at the time, which was address 1. Moreover, the Department provided sufficient evidence and testimony demonstrating that the medical packet did not come back to the Department as undeliverable mail from the USPS. Petitioner failed to present any documented evidence showing that she had trouble receiving her correspondence at address 1. Instead, the Department presented copies of the medical packet sent to her proper address at the time, which were not returned. [Exhibit A, pp. 8-19.] As such, it is found that Petitioner failed to rebut the presumption of proper mailing.

Second, the undersigned finds that Petitioner failed to submit the medical packet by the due date. The Department properly mailed her the medical packet on [REDACTED]; and she failed to submit the documents before the [REDACTED], due date. Because the medical packet was properly mailed and Petitioner failed to submit the medical packet before the due date, the Department acted in accordance with Department policy when it closed Petitioner's FIP benefits effective [REDACTED]. BAM 105, p. 9; BEM 230A, p. 12; and BAM 815, p. 2. Petitioner can reapply for benefits.

DECISION AND ORDER

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 acted in accordance with Department policy when it closed Petitioner's FIP benefits effective [REDACTED].

Accordingly, the Department's **FIP** decision is **AFFIRMED**.

IT IS ALSO ORDERED that Petitioner's **SDA** hearing request is **DISMISSED**.

EJF/jaf



Eric J. Feldman
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

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

DHHS

[REDACTED]

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