

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

IN THE MATTER OF:



Reg. No.: 14-012585
Issue No.: 1002
Case No.: [REDACTED]
Hearing Date: December 11, 2014
County: WAYNE PATHWAYS TO
POTENTIAL

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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. After due notice, a three-way telephone hearing was held on December 11, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant's Authorized Hearing Representative (AHR)/sister, [REDACTED]. Participants on behalf of the Department of Human Services (Department or DHS) included Deborah Lesure, Success Coach.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits effective September 1, 2014?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FIP benefits. See Exhibit 1, p. 9.
2. On July 15, 2014, the Department sent Claimant a redetermination and it was due back by August 1, 2014. See Exhibit 1, p. 3. Claimant submitted the redetermination before the benefit period had ended (August 31, 2014).
3. On July 18, 2014, the Department sent Claimant a Medical Determination Verification Checklist (medical packet) in order to determine Claimant's eligibility for the Partnership. Accountability. Training. Hope. (PATH) program deferrals. See Exhibit 1, p. 4. In this medical packet, the Department requested the Medical Examination Report (DHS-49); Psychiatric/Psychological Examination Report

(DHS-49-D); Mental Residual Functional Capacity Assessment (DHS-49-E); and Authorization to Release Protected Health Information (DHS-1555 or DHS-1555-E). See Exhibit 1, p. 4. The medical packet was due back by July 28, 2014.

4. On July 28, 2014, Claimant submitted only a Medical Examination Report (DHS-49). See Exhibit 1, pp. 12-14.
5. On July 29, 2014, the Department sent Claimant another medical packet, which also requested a Medical Needs (DHS-54A) document. See Exhibit 1, p. 5. This additional medical packet extended all of Claimant's medical packet forms to be due back by August 8, 2014. See Exhibit 1, p. 5.
6. Claimant failed to submit the remaining documents by the due date.
7. On August 13, 2014, Claimant submitted a Medical Needs – PATH (DHS-54-E) form (in lieu of the DHS-54A). See Exhibit 1, pp. 10-11.
8. On August 15, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective September 1, 2014, ongoing, for failure to submit the entire medical packet. See Exhibit 1, pp. 6-8.
9. On September 15, 2014, Claimant and her AHR filed a hearing request, protesting the FIP case closure. See Exhibit 1, p. 2.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) 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 to .3131.

As a preliminary matter, the Department testified that Claimant had a quality control (QC) review. Clients must also cooperate with local and central office staff during quality control (QC) reviews. BAM 105 (April 2014), p. 6. However, it appears that the QC review was only applicable to Claimant's Food Assistance Program (FAP) benefits as identified in a Department memo dated August 15, 2014. See Exhibit 1, p. 18. As such, Claimant's FIP case closure was based on a failure to provide the medical packet.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (April 2014), p. 6. This includes completion of necessary forms. BAM 105, p. 6. For FIP cases, the Department allows the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. BAM 130 (July 2014), p. 6. The Department sends a negative action notice when: the client indicates refusal to provide a verification, or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6.

In this case, on September 30, 2013, Claimant's previous deferral request was denied as Medical Review Team (MRT) found her not disabled – work ready with limitations. See Exhibit 1, pp. 15-17. Nevertheless, the Department appeared to testify that Claimant was on a PATH deferral or requested a deferral. Furthermore, the Department appeared to indicate it requested medical packet information in order to determine Claimant's PATH eligibility of the deferral. The Department testified that it received a review audit from MRT questioning as to why Claimant's FIP case was still open. Thus, the Department testified it requested the medical packet information to determine her ongoing FIP eligibility. See Exhibit 1, p. 20 and BAM 320 (July 2013), pp. 1-11.

On July 18, 2014, the Department sent Claimant the medical packet in order to determine her PATH program deferral. See Exhibit 1, p. 4. On July 28, 2014, Claimant submitted only a Medical Examination Report (DHS-49) document. See Exhibit 1, pp. 12-14. The Department testified that it also needed to request a DHS-54A form. Thus, on July 29, 2014, the Department sent Claimant another medical packet, which also requested a Medical Needs (DHS-54A) document. See Exhibit 1, p. 5. This additional medical packet extended all of Claimant's medical forms to be due back by August 8, 2014. See Exhibit 1, p. 5. Claimant failed to submit the remaining medical packet by the due date. On August 13, 2014, Claimant submitted a Medical Needs – PATH (DHS-54-E) form (in lieu of the DHS-54A). See Exhibit 1, pp. 10-11.

At the hearing, the Department testified that Claimant failed to submit the Psychiatric/Psychological Examination Report (DHS-49-D); Mental Residual Functional Capacity Assessment (DHS-49-E); and Authorization to Release Protected Health Information (DHS-1555 or DHS-1555-E). As such, on August 15, 2014, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective September 1, 2014, ongoing, for failure to submit the entire medical packet. See Exhibit 1, pp. 6-8.

Claimant's AHR acknowledged that Claimant did not submit the Psychiatric/Psychological Examination Report (DHS-49-D) and Mental Residual Functional Capacity Assessment (DHS-49-E). Upon receipt of the first medical packet request, Claimant's AHR testified she contacted the Department multiple times before the due date. Claimant's AHR testified she notified the Department that Claimant only met with her psychiatrist in the middle of the month and that the psychiatrist was on vacation. As such, Claimant's AHR testified that the two forms could not be completed

by due date (July 28, 2014). Claimant's AHR testified that she could not recall if she received the Authorization to Release Information. Claimant's AHR testified that there were no issues in receiving mail. The Department testified that it did send the Claimant the Authorization to Release Information and that no mail was returned from the United States Postal Service (USPS).

Upon receipt of the second medical packet request, Claimant's AHR testified again she contacted the Department multiple times seeking assistance before the due date of August 8, 2014. Claimant's AHR reiterated the same information that Claimant only sees the psychiatrist in the middle of the month and that Claimant was seeking an extension. Furthermore, Claimant's AHR indicated difficulty with the forms based on the recent floods in the State of Michigan that occurred in August 2014. See Exhibit 1, p. 2. The Department acknowledged speaking to the AHR and/or Claimant multiple times via telephone and in-person. However, the Department argued that Claimant had to submit the documentation. Finally, Claimant's AHR testified that they did not submit the DHS-49-D and DHS-49-E upon receiving the closure notice.

Regarding 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 system. BEM 230A, p. 12. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. BEM 230A, p. 12.

Determination of a long-term disability is a three step process. BEM 230A, p. 12. The client must fully cooperate with both steps. BEM 230A, p. 12. For verified disabilities over 90 days (step 2), the specialist must submit a completed medical packet and obtain a Medical Review Team (MRT) decision. BEM 230A (October 2013), p. 12. The client must provide DHS with the required documentation such as the DHS-49 series, medical and/or educational documentation needed to define the disability. BEM 230A, pp. 12-13. If the client does not provide the requested verifications, the FIP should be placed into closure for failure to provide needed documentation; see BAM 815, Medical Determination and Obtaining Medical Evidence. BEM 230A, pp. 12-13. It should be noted that as part of the referral to MRT, the Department should have the recipient sign a DHS-1555-E, Release of Information. BEM 230A, p. 13.

Additionally, BAM 815 discusses the medical determination process and the steps for obtaining medical evidence. BAM 815 (July 2014), pp. 1-16. Specifically, the specialist completes a DHS-1555, Authorization to Release Protected Health Information, to request existing medical records if the client has:

- Seen a physician within the last 12 months.
- Gone to a clinic within the last 12 months.
- Been hospitalized within the last 12 months.

BAM 815, p. 4. If the client was seen by a physician through Disability Determination Service (DDS), a copy of the examination report must be requested from the respective DDS office. BAM 815, p. 4. If the case is no longer active with DDS, the report is to be requested through the local SSA district office. BAM 815, p. 4. The physician may not be allowed to release the report directly to the department or the client. BAM 815, p. 4. The client must complete appropriate sections of the DHS-1555 to authorize release of the medical information. BAM 815, p. 4.

Based on the foregoing information and evidence, the Department properly closed Claimant's FIP benefits effective September 1, 2014.

First, 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). The evidence presented that it properly sent the Authorization to Release Protected Health Information (DHS-1555) to the Claimant on July 18, 2014. See Exhibit 1, p. 4. Claimant's AHR indicated no issues in receiving DHS correspondence and the Department did not receive any returned mail from USPS. As such, it is found that Claimant failed to rebut the presumption of proper mailing.


Second, the evidence presented that Claimant failed to submit the Authorization to Release Protected Health Information (DHS-1555) by the extended due date of August 8, 2014. See Exhibit 1, p. 5. It is understandable that Claimant had difficulty in obtaining an appointment with her psychologist and notified the Department of such issues. Furthermore, it is apparent that the Claimant submitted the Medical Examination Report and Medical Needs – PATH form and such documents could have possibly been forwarded to MRT. See Exhibit 1, pp. 10-14. However, the evidence indicated that Claimant must have completed the DHS-1555 form and she failed to do so. The specialist completes an DHS-1555, Authorization to Release Protected Health Information, to request existing medical records if the client has (i) seen a physician within the last 12 months; (ii) or gone to a clinic within the last 12 months; (iii) or been hospitalized within the last 12 months. The client must complete appropriate sections of the DHS-1555 to authorize release of the medical information. BAM 815, p. 4. The evidence presented that Claimant failed to submit this document as required by BAM 815. Because Claimant failed to complete the DHS-1555 to authorize release of the medical information, the Department acted in accordance with Department policy when it closed Claimant FIP case effective September 1, 2014. See BAM 105, p. 6; BAM 130, p. 6 and BAM 815, p. 4.

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 properly closed Claimant's FIP benefits effective September 1, 2014.

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


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **12/15/2014**

Date Mailed: **12/15/2014**

EJF / cl

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 party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (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:



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