

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

IN THE MATTER OF:



Reg. No.: 201338398
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: April 29, 2013
County: Wayne County (#57)

ADMINISTRATIVE LAW JUDGE: MICHELLE HOWIE

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted on Monday April 29, 2013 from Detroit, Michigan. The Claimant appeared and testified. Participants on behalf of Department of Human Services (Department) included [REDACTED] (Eligibility Specialist) and [REDACTED] (Assistant Payment Worker).

ISSUE

Whether the Department properly denied the Claimant's application for cash assistance (FIP) for failure to participate in employment related activity?

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 January 9, 2013, the Department received the Claimant's application for FIP and Food Assistance Program (FAP) benefits.
2. The Department referred the Claimant to attend the Partnership Accountability Training Hope (PATH) program.
3. The Claimant requested a deferral from the work participation program due to caring for a child with disability. The Department processed the request and requested medical documentation and school verification. (Exhibit 4)
4. The Claimant did not continue to attend the PATH program due to having different doctor's appointments with her daughter.

6. On March 26, the Department received the Claimant's written hearing request concerning the status of her FIP and FAP benefits.
7. On April 2, 2012, the Department denied the FIP application for failure to complete the 21 day PATH orientation. (Exhibit 2)
8. The Department closed the Claimant's FAP benefits in error but reinstated as of April 2, 2013, and issued a supplement for FAP benefits for March 2013. Claimant also received benefits for January and February 2013. (Exhibit 5)

CONCLUSIONS OF LAW

As a preliminary matter, the Claimant's FAP benefits are active and the Department issued a supplement for lost FAP benefits resolving the FAP issue prior to the hearing. Therefore, the hearing decision does not address the FAP issue.

The Department of Human Services (DHS) policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Department requires that all work eligible individuals ("WEI"), and non-WEIs, engage in employment and/or self-sufficiency-related activities to increase their employability and obtain employment. BEM 233A (January 2013), p. 1. At application, all non-deferred clients are referred to the PATH program and must complete the 21 day PATH application eligibility period (AEP) part of orientation which is an eligibility requirement for approval of the FIP application. BEM 229 (January 2013), p. 1. Failure to complete all three components of the AEP which include beginning the AEP by the last date to attend; completing PATH AEP requirements; and continue to participate in PATH after completion of the 21 day AEP will result in denial of the FIP application. BEM 229, p. 1. Clients must engage in and comply with all PATH assignments while the FIP application is pending. BEM 229, p. 5. The Department's system will automatically deny FIP benefits for non-compliance while an application is pending. BEM 229, p. 5.

When a client asserts a barrier to participating in the PATH program and requests a deferral from PATH due to an alleged inability to participate due to caring for a minor child or spouse with a disability, the Department may temporarily defer the client from PATH. BEM 230A (January 2013), p. 6. The Department must request verification of the alleged reason for deferral. The Department is required to document the deferral

decision, inform the client of the decision and the reason for denial and that the client will be required to participate in PATH. BEM 230A, p. 15. If the deferral is granted the Department notifies the client of the decision and length of deferral.

In this case, the Claimant requested a temporary deferral from PATH. She notified the Department that her children have disabilities which temporarily prevented her from fully participating in the program because her minor daughter was scheduled to have surgery on March 15, 2013. She had several doctor appointments and other preparation matters that she needed to attend, which would prevent her from fully participating in the PATH program. On February 26, 2013, the Department determined that since the Claimant's son was in school full-time no deferral was needed. Evidence indicates the Department did not consider the Claimant's information about her minor daughter having surgery. The Department did not inform the Claimant of the denial of her deferral request (See Exhibit 4). Claimant testified credibly, that she spoke with the PATH worker about her identified barriers and thought the worker would work with her situation. The PATH worker did not participate in the hearing process.

Policy provides that the Department is not to refer a client to PATH that identifies such barriers to participating with the PATH program while a disability or deferral determination is pending. Once the Department makes a decision that it will deny the deferral, the Department is then to refer the client to PATH. Here, the Department referred the Claimant to PATH while her deferral request was pending, which resulted in the PATH program determining the Claimant to be non-compliant with the 21 day orientation period because she was unable to fully participate. In addition, the Department did not properly notify the Claimant of the deferral decision as required. Therefore, I find the Department did not establish it acted in accordance with policy when it denied the Claimant's FIP application for failure to participate in employment related activity.

Accordingly, the Departments action is not upheld,

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department did not act in accordance with policy when it denied the Claimant's January 9, 2013 application.

Accordingly, the Department's FIP determination is hereby, **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department shall re-instate the Claimant's January 9, 2013 FIP application and process in accordance with department policy.
2. The Department shall refer the Claimant back to PATH if all identified barriers have been removed.

3. The Department shall issue a supplement for FIP benefits back to the effective date of eligibility, consistent with the January 9, 2013 application, if otherwise eligible and qualified to receive.
4. The Department shall properly notify the Claimant of any deferral request decision.

M. Howie

Michelle Howie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/6/2013

Date Mailed: 5/6/2013

NOTICE: Michigan Administrative Hearing System (MAHS) may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. MAHS will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at
Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

MH/hw

cc:

