

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

IN THE MATTER OF:



Reg. No.: 2013-51787
Issue No.: 1038
Case No.: [REDACTED]
Hearing Date: July 3, 2013
County: Wayne (19)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 held on July 3, 2013, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED] e [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Family Independence Program (FIP) benefits.

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 4/8/13, Claimant applied for FIP benefits.
2. Claimant's application listed that Claimant had a disability.
3. On 4/11/13, DHS mailed Claimant a Medical Needs-PATH form.
4. On 5/3/13, DHS faxed a Medical Needs- PATH form to Claimant's social worker.
5. On 5/9/13, DHS received a completed Medical Needs-PATH form which stated that Claimant could work with limitations of occasionally lifting 25 pounds.

6. Based on Claimant's documentation, DHS determined that Claimant was capable of attending PATH.
7. On an unspecified date, DHS mailed Claimant a PATH orientation appointment notice.
8. Claimant did not attend PATH orientation.
9. On 5/24/13, DHS denied Claimant's FIP benefit application.

CONCLUSIONS OF LAW

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

DHS requires clients to participate in employment and self-sufficiency-related activities and to accept employment when offered. BEM 233A (1/2013), p. 1. The focus is to assist clients in removing barriers so they can participate in activities which lead to self-sufficiency. *Id.*

Mandatory work participation program clients are referred to the Work Participation Program (WPP) upon application for FIP, when a client's reason for deferral ends or a member add is requested. BEM 229 (1/2013), p. 3. All Work Participation Program referrals are sent by Bridges (the DHS database). *Id.* Bridges (the DHS database) automatically denies FIP when a client fails to continue to participate while the FIP application is pending. *Id.*, p. 4. Clients can reapply for FIP at any time after their application is denied for failing to appear or participate with the work participation program. *Id.*

The present case involves a denial of a FIP benefit application based on Claimant's failure to attend PATH orientation. DHS failed to establish the date of PATH orientation though Claimant conceded not attending PATH orientation. The failure to specify the date of orientation can be problematic. A client has a right to explain the lack of attendance, and is handicapped if DHS cannot even assert a specific date for the missed appointment. In the present case, Claimant's excuse for not attending was not tied to a specific date. Instead, Claimant claimed a long-term disability. Claimant's claim implied that she was unable to attend PATH on any date. Thus, the failure by DHS to establish a specific date is not deemed to be significant.

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 Bridges. BEM 230A (1/2013), p. 9. Conditions include medical problems such as mental or physical injury, illness, impairment or learning disabilities. This may include those who have applied for RSDI/SSI. *Id.*

Determination of a long-term disability is a three step process. BEM 230A, p. 10. For step one, once a client claims a disability he/she must provide DHS with verification of the disability when requested. BEM 230A, p. 10. The verification must indicate that the disability will last longer than 90 calendar days. BEM 230A, p. 10. If the verification is not returned, a disability is not established. BEM 230A, p. 10. The client will be required to fully participate in PATH as a mandatory participant. BEM 230A, p. 10. For step two, verified disabilities over 90 days, the specialist must submit a completed medical packet and obtain a MRT (Medical Review Team) decision. BEM 230A, p. 10. Step three involves the referral to MRT. See BEM 230A, pp. 10-11. Upon the receipt of the MRT decision, the Department reviews the determination and information provided by MRT. BEM 230A, p. 11. The Department establishes the accommodations the recipient needs to participate in PATH or to complete self sufficiency-related activities. BEM 230A, p. 11.

In the present case, Claimant returned to DHS a Medical Needs-PATH form completed by Claimant's treating physician. The form stated that Claimant could work with limitations. A noted limitation was that Claimant could only occasionally lift 25 pounds and never 50 pounds or more. It was also noted that Claimant may need frequent breaks due to fibromyalgia.

Claimant's DHS specialist stopped the disability evaluation process at step one by interpreting Claimant's submission as a failure to establish disability. The Medical Needs-PATH document did not indicate a length of Claimant's disability. The Medical Needs-PATH form did not list any standing or sitting restrictions. The Medical Needs-PATH form indicated that Claimant did not require help with any daily activities. Based on Medical Needs-PATH form, it was reasonable for DHS to find that Claimant failed to verify any disabilities preventing PATH attendance.

Claimant's social worker testified that Claimant's inability to attend PATH is primarily based on psychological problems. The social worker testified that she had the Medical Needs-PATH form completed by a doctor with knowledge of Claimant's physical restrictions because the Medical Needs-PATH form is poorly written for mental restrictions. Claimant's social worker contended that if DHS wanted proof of psychological restrictions, then DHS should have drafted a form which more clearly addresses psychological restrictions.

The social worker's point has some validity. The Medical Needs-PATH form appears to primarily address exertional restrictions. However, there was room on the form to note psychological disorders. There was a place on the form to list that a disability expected

to last more than 90 days. There was a place on the form to indicate that Claimant could not perform daily activities, which is a potential limitation of those with psychological disorders. Thus, it cannot be claimed that the Medical Needs-PATH form could not address psychological restrictions.

Most troublesome was the failure by Claimant, or persons acting on behalf of Claimant, to call the DHS specialist to request a different form. Claimant's social worker conceded that no call was made to the specialist to request a different form.

Based on the presented evidence, it is found that DHS properly found that Claimant failed to provide sufficient evidence of a disability. Accordingly, Claimant's failure to attend PATH appropriately resulted in denial of the FIP application.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's FIP benefit application dated 4/8/13. The actions taken by DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/12/2013

Date Mailed: 7/12/2013

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 affect the substantial rights of the claimant,
- 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

CG/hw

cc:

