

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

IN THE MATTER OF:

Reg. No.: 2013-69332
Issue No.: 1021
Case No.: [REDACTED]
Hearing Date: October 23, 2013
County: Wayne (57)

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 telephone hearing was held on October 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included [REDACTED], Assistant Payment Supervisor, and [REDACTED] son, Eligibility Specialist.

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) application effective September 16, 2013, ongoing?

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 August 22, 2013, Claimant applied for FIP benefits.
2. On August 27, 2013, the Department sent Claimant a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice instructing the Claimant to attend the PATH orientation on September 6, 2013. Exhibit 1.
3. On September 6, 2013, Claimant failed to attend her scheduled orientation.
4. On an unspecified date, Claimant was notified via telephone from the Department that her FIP application was denied.

5. On September 12, 2013, Claimant filed a hearing request, disputing the Department's action. Exhibit 1.
6. On September 18, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective September 16, 2013, ongoing, due to her failure to attend the PATH orientation. Exhibit 1.

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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

As a preliminary matter, both parties agreed that Claimant was notified before her Notice of Case Action was sent that her FIP application was denied. Thus, this hearing proceeded to address Claimant's FIP denial.

Clients must complete a 21 day PATH application eligibility period (AEP) in order for their FIP application to be approved. BEM 229 (July 2013), p. 1. PATH participants must complete all of the following in order for their FIP application to be approved: begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice; complete PATH AEP requirements; and continue to participate in PATH after completion of the 21 day AEP. BEM 229, p. 1. The Department denies the FIP application if an applicant does not complete all of the above three components of the AEP. BEM 229, p. 1.

The Department will automatically issue a DHS-4785, PATH Program Appointment Notice, at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory PATH participant. BEM 229, p. 6. When assigned, clients must engage in and comply with all PATH assignments while the FIP application is pending. BEM 229, p. 6. PATH engagement is a condition of FIP eligibility. BEM 229, p. 6. Failure by a client to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. BEM 229, p. 6. The Department automatically denies FIP benefits for noncompliance while the application is pending. BEM 229, p. 6.

In this case, on August 22, 2013, Claimant applied for FIP benefits. On August 27, 2013, the Department sent Claimant a PATH Appointment Notice instructing the Claimant to attend the PATH orientation on September 6, 2013. Exhibit 1. On September 6, 2013, Claimant failed to attend her scheduled orientation. On September 18, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective September 16, 2013, ongoing, due to her failure to attend the PATH orientation. Exhibit 1.

On September 5, 2013, Claimant went to the local DHS office to pick-up bus tickets in order to receive transportation to the PATH program. However, Claimant testified that she never received them at the local DHS office and eventually obtained them in the mail. That evening, Claimant testified she learned that she had a death in her extended family. Claimant testified that the funeral was the next day on September 6, 2013, the same day as her scheduled PATH orientation. It should be noted Claimant provided the obituary at the hearing in which the funeral was scheduled on the same day as the orientation. See Exhibit A.

On September 6, 2013, Claimant testified that she contacted her PATH caseworker indicating her inability to attend the scheduled orientation. Claimant testified that the PATH caseworker stated they were unable to reschedule and that she would have to contact her DHS caseworker. Thus, on September 6, 2013, Claimant testified that she left a voicemail for her DHS caseworker but did not receive any contact back that day. Claimant testified it was not until a couple of days later that she spoke to her DHS caseworker. Claimant testified that her DHS caseworker told her the opposite information that she had to contact her PATH caseworker to reschedule. Claimant testified that she told the DHS caseworker about the funeral, but that ultimately, she was notified that her application was denied for failure to attend.

The Department testified that on September 5, 2013, the DHS caseworker was going to give her the bus tickets; however, she left the local DHS office. Nevertheless, the Department testified that it mailed the bus tickets. The Department also testified that it never received any voicemail from the Claimant on September 6, 2013, the day of the PATH orientation. The Department does agree that it spoke to the Claimant a couple of days later. During the phone conversation, the Department testified that Claimant notified her of the funeral. The Department testified that she told the Claimant she should have gone to orientation and the PATH caseworker could have excused her. Ultimately, the Department determined that Claimant did not attend her orientation and her application was denied.

BEM 229 states the Department ensures the client understands his/her responsibility to participate in employment-related activities including, but not limited to, calling before they are unable to attend a meeting or appointment and before they become noncompliant. BEM 229, p. 3. BEM 229 also states that either DHS or the one-stop service center may extend the last day the client has to attend AEP/orientation when necessary. BEM 229, p. 7.

A review of the PATH Appointment Notice dated August 27, 2013, indicates that if the Claimant is unable to keep her appointment that she should call her DHS specialist before she misses the appointment. See Exhibit 1. Also, it states that the Claimant must reschedule the appointment as soon as possible. See Exhibit 1. Finally, the PATH Appointment Notice states that if the Claimant does not call or appear within 15 days of the notice, her application will be denied. See Exhibit 1.

Based on the foregoing information and evidence, the Department improperly denied Claimant's FIP application effective September 16, 2013, ongoing. Claimant credibly testified that she contacted the Department to request a new appointment due to a death in her extended family. Moreover, Claimant provided credible evidence which included an obituary that showed the funeral was scheduled on the same day as the orientation. Claimant credibly testified that she learned of the funeral the previous night and she understood her responsibility and called before her appointment stating that she would be unable to attend. See BEM 229, p. 3. Due to these reasons, the Department could have rescheduled her orientation because she could have attended another appointment within the 15 days of the August 27, 2013, PATH Appointment Notice. Also, the Department could have extended the last day the client has to attend AEP/orientation when necessary. BEM 229, p. 7. Even though Claimant contacted the Department on the same day, she followed the appropriate procedures by notifying the Department of her inability to attend and the Department could have rescheduled her appointment. See Exhibit 1 and BEM 229, pp. 3 and 7.

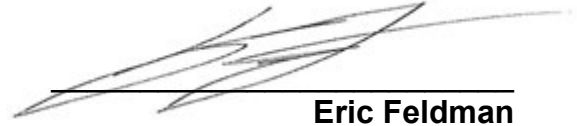
DECISION AND ORDER

Accordingly, the Department's FIP 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. Initiate reregistration of the August 22, 2013 FIP application;
2. Begin reprocessing the application/recalculating the FIP budget for September 16, 2013, ongoing, in accordance with Department policy;
3. Begin issuing supplements to Claimant for any FIP benefits she was eligible to receive but did not from September 16, 2013, ongoing; and

4. Notify Claimant in writing of its FIP decision in accordance with Department policy.



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

Date Signed: November 1, 2013

Date Mailed: November 1, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted 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 Department, AHR or the claimant 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 the hearing decision is mailed.

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 48909-07322

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]