

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-2981
Issue No(s): 1038
Case No.: [REDACTED]
Hearing Date: November 12, 2013
County: Wexford

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 November 12, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant, and [REDACTED] sister. Participants on behalf of the Department of Human Services (Department) included [REDACTED] FIM and Hearing Coordinator, and [REDACTED] FIS.

ISSUE

Did the Department properly deny the Claimant's application for the cash assistance, the Family Independence Program (FIP)?

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 26, 2013, the Claimant applied for cash assistance benefits. (Exhibit 1, page 4)
2. The Claimant claimed disability during the intake appointment.
3. On August 29, 2013, the Claimant was given the DHS-54E, Medical Needs-JET form along with a DHS-3503 Verification Checklist with a due date of September 9, 2013. (Exhibit A, pages 1 and 17-18)
4. On August 29, 2013, the Claimant was given a DHS-4785 PATH appointment notice printed by the local Department office with an appointment date of September 2, 2013. (Exhibit A, page 19)

5. On August 29, 2013, the Claimant was sent a DHS-4785 PATH appointment notice generated by the central Department office with an appointment date of September 10, 2013. (Exhibit A, page 20)
6. On September 17, 2013, a Notice of Case Action was issued to the Claimant denying the cash program based on failure to attend the PATH program orientation. (Exhibit A, pages 21-22)
7. On September 30, 2013, the Claimant filed a request for hearing protesting the Department's action.

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 MC L 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

Additionally, FIP is temporary cash assistance to support a family's movement to self-sufficiency. The recipients of FIP engage in employment and self-sufficiency related activities so they can become self-supporting. Federal and state laws require each work eligible individual in the FIP group to participate in Partnership. Accountability. Training. Hope. (PATH) or other employment-related activity unless temporarily deferred or engaged in activities that meet participation requirements. BEM 230 A

Completion of the 21 day PATH application eligibility period (AEP) part of orientation is an eligibility requirement for approval of the FIP application. However, the Department is to temporarily defer an applicant who has identified barriers that require further assessment or verification before a decision about a lengthier deferral is made, such as clients with serious medical problems or disabilities or clients caring for a spouse or child with disabilities. Clients should not be referred to orientation and PATH AEP until it is certain that barriers to participation such as lack of child care or transportation have been removed, possible reasons for deferral have been assessed and considered, and disabilities have been accommodated. BEM 229

The FIS testified that the Claimant claimed disability at the intake appointment. Before the Claimant left the Department office on August 29, 2013 she was given the DHS-54E, Medical Needs-JET, form along with a DHS -3503 Verification Checklist with a due date of September 9, 2013. (Exhibit A, pages 1 and 17-18) However, the local Department did not temporarily defer the Claimant based on the identified barrier of

disability for further assessment or verification. On August 29, 2013, the Claimant was also given a DHS-4785 PATH appointment notice printed by the local Department office with an appointment date of September 2, 2013. (Exhibit A, page 19) Additionally, on August 29, 2013, the Claimant was sent a DHS-4785 PATH appointment notice generated by the central Department office with an appointment date of September 10, 2013. (Exhibit A, page 20)

The Claimant testified that her doctor's office had also been stating that they had faxed the verification form back to the Department, but then did not give her the verification form until about a month after the denial notice was issued. The Claimant also testified that she made multiple calls to the Department on a Saturday afternoon and left messages requesting another date for the PATH appointment due to problems with transportation and child care. The FIS noted that Monday September 2, 2013, was a state holiday so the earliest the voicemail could have been received was Tuesday morning. It is noted that the PATH appointment was scheduled on the holiday, Monday September 2, 2013, and the notice had only been handed to the Claimant at the local office on Thursday, August 29, 2013.

The Claimant also testified that despite her mailing address showing on the PATH appointment notice generated by the central Department office, it was received at her brother's house. The Claimant stated she did not get this notice until a week later. The Claimant's testimony about her attempts to call the Department on a Saturday indicated she had been staying at a shelter at that time.

It was uncontested that the Claimant asserted disability during the intake interview. The Department's actions were not in accordance with the BEM 229 policy to temporarily defer an applicant who has identified barriers that require further assessment or verification before a decision about a lengthy deferral is made, such as clients with serious medical problems or disabilities or clients caring for a spouse or child with disabilities. Rather, the Department issued everything on August 29, 2013, including the 54E, Medical Needs-JET form along with a DHS-3503 Verification Checklist, and two DHS-4785 PATH appointment notices with different appointment dates. Further, the first PATH appointment was scheduled before the due date for returning the requested verification and was on a state holiday, September 2, 2013.

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 did not act in accordance with Department policy when it denied the Claimant's August 26, 2013 FIP application based on failure to attend the PATH program orientation.

DECISION AND ORDER

Accordingly, the Department's 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. Reinstate and re-process the Claimant's August 26, 2013 FIP application in accordance with Department policy.
2. Issue the Claimant any supplement that she may thereafter be due.

Colleen Lack

Colleen Lack
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: November 14, 2013

Date Mailed: November 14, 2013

NOTICE OF APP EAL: 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.

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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

CL/las

cc:

