

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

**IN THE MATTER OF:**

██████████  
██████████  
██████████

Reg. No.: 2014-3137  
Issue No.: 1005  
Case No.: ██████████  
Hearing Date: November 7, 2013  
County: Wayne (82-15)

**ADMINISTRATIVE LAW JUDGE:** Alice C. Elkin

**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 7, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████  
██████████

**ISSUE**

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

**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 cash assistance.
2. Although Claimant indicated that he was applying for State Disability Assistance (SDA), not FIP, the Department concluded that, because Claimant had minor children in his household, he was eligible only for FIP.
3. Because Claimant alleged a disability, the Department asked that he have his doctor submit a completed DHS-54E, Medical Needs form.
4. Claimant timely submitted a DHS-54E completed by his doctor.

5. The Department contacted Claimant's doctor and concluded based on this discussion that Claimant was able to participate in the PATH program.
6. When the Department contacted Claimant to let him know that his PATH deferral was being denied, Claimant indicated that he no longer wanted cash assistance.
7. On September 19, 2013, the Department sent Claimant a Notice of Case Action denying his application for cash assistance because he had withdrawn the application.
8. On September 27, 2013, Claimant filed a request for hearing disputing the denial of his cash application.

### **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.

Additionally, at intake for an FIP application, an individual who 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 should be deferred from participation in the PATH program while a disability determination is assessed. BEM 230A (January 2013), p. 9. The first step in the disability determination requires the client to provide the Department upon its request with verification of a disability lasting longer than 90 days. BEM 230A, p. 10.

In this case, because Claimant identified a disability in his FIP application, the Department asked Claimant to have his doctor complete a DHS-54E to determine his eligibility for a deferral from participation in the PATH program. Claimant timely submitted a DHS-54E completed by his doctor. The DHS-54 states that Claimant could not work at his usual occupation or at any job for at least 12 months and that he could not lift weights, including weights less than 10 pounds, and could stand and/or walk less than 2 hours in an 8-hour workday. This document verified that Claimant had a disability lasting greater than 90 days.

Department policy provides that, once a client verifies a disability over 90 days, the Department must request that Claimant provide additional medical documents needed to define the disability, and the specialist must submit a completed medical packet to the Medical Review Team (MRT) and obtain a decision from MRT. BEM 230A, p. 10.

In this case, the DHS-54E was forwarded by Claimant's worker to the Department's PATH coordinator. The PATH coordinator testified that she contacted the doctor in order to get clarification and because of concerns about clients completing the forms themselves. The Department may collaterally contact a person to verify information from the client if available evidence needs clarification. BAM 130 (May 2012), p. 2. The PATH coordinator's contact with Claimant's doctor established that the form was, in fact, completed by the doctor and the doctor had seen Claimant. The PATH coordinator testified that, because the doctor informed her that Claimant could participate in the PATH program but with limitations regarding the amount of weight he could lift and time spent sitting or standing, she concluded that Claimant was not eligible for a deferral. The Department confirmed that it did not send Claimant a medical packet for completion and did not forward his case to MRT. Department policy does not give the Department worker discretion to deny a deferral where the client completes the first step of the deferral process. Because Claimant submitted verification of a disability lasting more than 90 days and the coordinator verified that the form was completed by Claimant's doctor, the Department was required to continue the deferral process by gathering the medical packet and forwarding it to MRT. By failing to do so, the Department did not act in accordance with Department policy.

At the hearing, the Department contended that it properly denied Claimant's FIP application because Claimant had withdrawn the application. A client may withdraw an application any time before it is disposed on the Department's system. BAM 110 (July 2013), p. 15. At the hearing, Claimant admitted that he had told his worker that he no longer wished to pursue cash assistance, but he explained that he made this request only after his worker informed him that his deferral request had been denied and he was concerned that his participation in the PATH program would jeopardize his application for Supplemental Security Income (SSI) benefits filed with the Social Security Administration (SSA). Because the Department did not act in accordance with Department policy when it denied Claimant's request for deferral without completing the deferral process, it cannot rely on Claimant's comments in response to this inappropriate action to justify its actions in denying the application.

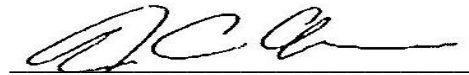
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Claimant's FIP application.

### **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. Reregister Claimant's August 22, 2013, application;
2. Reprocess the application, including Claimant's request for a deferral from the PATH program;
3. Issue supplements to Claimant for any FIP benefits he was eligible to receive but did not based on the application date; and
4. Notify Claimant in writing of his FIP eligibility.



**Alice C. Elkin**  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: November 12, 2013

Date Mailed: November 13, 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

2014-3137/ACE

Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-07322

ACE/pf

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