

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

IN THE MATTER OF:

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████████████████████

Reg. No.: 2014-25277
Issue No(s): 1001
Case No.: ██████████
Hearing Date: March 3, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 March 3, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and her husband, ██████████ who also served as translator. Participants on behalf of the Department of Human Services (Department) included ██████████, Family Case Manager.

ISSUE

Did the Department properly process Claimant's 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 December 5, 2013, Claimant submitted an application for FIP benefits.
2. On December 9, 2013, the Department sent Claimant a PATH Appointment Notice instructing her husband to attend PATH orientation on December 17, 2013. (Exhibit 1)
3. On January 21, 2014, the Department sent Claimant a Notice of Case Action informing her that her application for FIP was denied on the basis that she failed to complete a FAST within 30 days and attend PATH orientation. (Exhibit 2)

4. On January 30, 2014, Claimant requested a hearing, disputing the Department's actions.

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, PATH participants 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 (July 2013), pp. 1, 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. This requires that the client (i) begin the AEP by the last date to attend as indicated on the PATH Appointment Notice, (ii) complete the PATH AEP requirements, and (iii) continue to participate in PATH after completion of the 21-day AEP. BEM 229, p.1. Completion of a FAST is also required. The participant's failure to submit a FAST within 30 days of the notice date is a failure to meet eligibility requirements and will result in application denial. BEM 228 (July 2013), p. 21.

A person alleging a disability can be temporarily deferred from participating in the work program as a condition of FIP eligibility. BEM 230A (October 2013), pp.9-13. Persons with a mental or physical illness, limitation or incapacity expected to last less than three months and which prevents participation may be deferred for up to three months. The short term incapacity must be verified and a medical review performed. BEM 230 A, pp. 11-12. When an individual claims to be disabled or indicates an inability to participate in PATH for more than 90 days, the three step long term disability determination must be made in accordance with Department policy. BEM 230A, p.12.

The Department is to temporarily defer an applicant with identified barriers until the barrier is removed. Additionally, Clients should not be referred to orientation and 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, p. 2.

In this case, Claimant submitted an application for FIP benefits on December 5, 2013. In connection with that application, Claimant's husband was referred to PATH orientation. (Exhibit 1). The Department testified that because Claimant's husband did not attend PATH orientation on December 17, 2013, and because Claimant failed to complete the FAST within 30 days of the FAST notice, the Department sent Claimant a

Notice of Case Action on January 21, 2014, informing her that her FIP application had been denied on the basis that Claimant did not complete the entire PATH orientation process. (Exhibit 2).

At the hearing, Claimant testified that her husband did attend his scheduled PATH appointment on December 17, 2013 and that when he got to the appointment, he presented medical documentation and letters from his doctor indicating that he was unable to work due to a disability. Claimant stated that her husband was sent home from the appointment. Additionally, Claimant testified that on December 16, 2013, and December 17, 2013, she completed the FAST online and presented the confirmation numbers at the hearing, which the Department reviewed. (Exhibit A).

Although the Department may not have been aware of Claimant's husband's medical conditions prior to making the referral to PATH orientation, Claimant's husband did attend his scheduled appointment, as evidenced by the emails presented at the hearing. (Exhibit A). At that point, the Department was put on notice that Claimant's husband was alleging a disability as grounds for deferral from further participation in PATH and that a disability determination for deferral was needed.

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 prior to making a determination regarding Claimant's request for deferral based on a disability.

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. Register and process Claimant's December 5, 2013, FIP application;
2. Determine Claimant's husband's eligibility for deferral based on a disability;
3. Issue supplements to Claimant for any FIP benefits that she was eligible to receive but did not from the date of application ongoing; and

4. Notify Claimant of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 10, 2014

Date Mailed: March 10, 2014

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

ZB/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]