

**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.: 14-008035
Issue No.: 1001
Case No.: ██████████
Hearing Date: August 27, 2014
County: Wayne-District 55

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 August 27, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Claimant's Authorized Hearing Representative, ██████████ was not present for the hearing and Claimant indicated that she wanted to continue with the hearing in his absence. Participants on behalf of the Department of Human Services (Department) included ██████████, Case Worker.

ISSUE

Did the Department properly deny 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 or around June 24, 2014, Claimant submitted an application for cash assistance.
2. On June 27, 2014, the Department sent Claimant a PATH Appointment Notice instructing her to attend PATH orientation on July 7, 2014. (Exhibit 2)
3. On July 24, 2014, the Department sent Claimant a Notice of Case Action informing her that her FIP application had been denied on the basis that she failed to attend PATH orientation. (Exhibit 1)
4. On July 28, 2014, Claimant submitted a hearing request 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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

As a preliminary matter, Claimant raised concerns about the Department processing her application for cash assistance as an application for FIP benefits. Claimant stated that she applied for cash assistance under the State Disability Assistance (SDA) program because she is disabled and that the Department should have determined her eligibility for SDA as opposed to FIP. The Department stated that because Claimant has minor children, she is eligible for FIP. According to BEM 214, SDA is a cash program for individuals who are not eligible for FIP and are disabled or the caretaker of a disabled person. BEM 214 (April 2014), p.1. Therefore, the Department properly processed Claimant's cash assistance application as an application for FIP benefits.

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. 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. Failure by a client to participate fully in assigned activities while the FIP application is pending, including completion of the above three components of the AEP, will result in denial of FIP benefits. BEM 229, p. 6.

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.

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.

In this case, Claimant was a previous recipient of FIP benefits. Claimant's FIP case closed effective February 1, 2014, and a sanction was placed on her case due to noncompliance with work related activities. (Exhibit 4). On or around June 24, 2014, Claimant submitted a new application for FIP benefits. The Department stated that in connection with the application, it sent Claimant a PATH Appointment Notice instructing her to attend PATH orientation on July 7, 2014. (Exhibit 2). The Department further testified that because Claimant did not attend her PATH orientation on July 7, 2014, it sent her a Notice of Case Action informing her that her application had been denied. (Exhibit 1).

At the hearing, Claimant testified that she could not attend PATH orientation on July 7, 2014, because she has several medical conditions preventing her from participating in PATH. Claimant stated that on her application, she alleged a disability as a barrier to participation and that a few days before her PATH appointment; she called her case worker to inform the Department that she would not be able to attend orientation. The Department representative present for the hearing was unable to refute Claimant's testimony, as she was not Claimant's case worker at the time.

The Department confirmed that it was informed by Claimant at the time of application that she had medical conditions and couldn't participate in PATH. The Department stated that prior to Claimant's previous FIP case closure, her medical documents were sent to the Medical Review Team (MRT) to determine if she was disabled and eligible for a deferral. The Department testified that in November 2013, MRT determined that Claimant was not disabled for PATH purposes and that her request for deferral had been denied. (Exhibit 3). The Department further testified that because Claimant did not have any new medical condition at the time of application, it relied on the MRT decision from November 2013, determined that Claimant was ineligible for deferral, and sent her to PATH orientation.

According to BEM 230A, after a MRT decision has been completed and the client states that they have new medical evidence or a new medical condition resulting in disability greater than 90 days, the Department is to gather new verification and send for an updated MRT decision. BEM 230A, p. 16. When an individual presents a doctor's note after the MRT decision but does **not** have new medical evidence or a new condition, the Department is to send the DHS-518, Assessment For FIP Participation, to the doctor and request supporting medical evidence. If new medical evidence is not provided, the Department is not to send the case back to MRT and the previous MRT decision will stand. BEM 230A, p. 16.

In this case, Claimant indicated that she had new medical evidence and that her medical condition had changed since November 2013, when her case was last reviewed by MRT. The Department failed to establish that Claimant was given an opportunity to verify her new conditions or to provide additional proof from her doctor.

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 based on the evidence

presented, the Department failed to establish that Claimant was temporarily deferred from participation in PATH so that her request for deferral could be processed. Therefore, the Department has failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's application for FIP benefits.

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 FIP application;
2. Determine Claimant'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: **9/2/2014**

Date Mailed: **9/3/2014**

ZB / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

CC:

[REDACTED]