

**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.: 14-011920
Issue No.: 1001;6001
Case No.: ██████████
Hearing Date: October 15, 2014
County: WAYNE-DISTRICT 15

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 October 15, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████ ██████████, Family Independence Specialist.

ISSUE

Did the Department properly deny Claimant's applications for Family Independence Program (FIP) and Child Development and Care (CDC) 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 July 21, 2014, Claimant submitted an application for FIP and CDC benefits.
2. On July 22, 2014, the Department sent Claimant a PATH Appointment Notice instructing her to attend PATH orientation on August 4, 2014. (Exhibit 1)
3. On August 9, 2014, the Department sent Claimant a Notice of Case Action informing her that her CDC application had been denied on the basis that she failed to return verification of eligible CDC provider/care arrangement. (Exhibit 3)
4. On August 22, 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 the PATH program orientation. (Exhibit 2)

5. On September 3, 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).

FIP

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.

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.

Child care barriers are common and the Department is required to identify and provide direct support services as needed. The Department is responsible and must assist clients who present with child care barriers before requiring PATH attendance; see BEM 232 Direct Support Services. BEM 229, p.2. 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. Further, the Department may extend the last day the client has to attend AEP/orientation when necessary. BEM 229, p.7.

In this case, Claimant submitted an application for FIP benefits on July 21, 2014. In connection with the application, Claimant was sent a PATH Appointment Notice instructing her to attend PATH orientation on August 4, 2014. (Exhibit 1). The Department testified that because Claimant did not attend PATH orientation, it sent Claimant a Notice of Case Action on August 22, 2014, informing her that her FIP

application had been denied on the basis that she failed to attend PATH orientation. (Exhibit2).

At the hearing, Claimant testified that she did not attend PATH orientation because she did not have proper child care. Claimant stated that she was living in a shelter with her child and that there was no one available to watch her daughter during the time she was required to attend PATH orientation. Claimant credibly testified that she contacted her case worker on August 4, 2014, to inform her that she would be unable to attend PATH due to her lack of child care and that she left a message but her phone call was not returned. Claimant further stated that she called her case worker again on August 5, 2014, to have her appointment rescheduled but did not receive a response from the Department. Claimant indicated that she contacted her case worker via email as well, but because her phone was in shut off status due to nonpayment, she was unable to access her emails during the hearing to verify her testimony.

The Department stated that it recalled having a conversation with Claimant concerning her inability to attend PATH due to her lack of child care but could not identify a date of when this conversation took place. At the time Claimant submitted her application for FIP, she also submitted an application for CDC assistance. Therefore, the Department was aware that Claimant had certain child care barriers prior to referring her to PATH orientation.

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 the barriers she identified could be removed. As such, 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.

CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Additionally, verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (July 2014), p.1. To request verification of information, the Department sends a VCL which tells the client what verification is required, how to obtain it, and the due date. BAM 130, pp. 3-4. Although the client must obtain the required verification, the Department must assist if a client needs and requests help. If neither the client nor the Department can obtain the

verification despite a reasonable effort, the Department is to use the best available information; and if no evidence is available, the Department is to use its best judgment. BAM 130, p. 3.

With respect to CDC cases, clients are given 10 calendar days to provide the verifications requested by the Department. Verifications are considered to be timely if received by the date they are due. BAM 130, p.6. The Department sends a negative action notice when the client indicates a refusal to provide a verification or the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 6. For CDC cases, if the client cannot provide the verification despite a reasonable effort, the Department can extend the time limit at least once. BAM 130, p. 6.

In this case, on July 21, 2014, Claimant submitted an application for CDC benefits. On August 9, 2014, the Department sent Claimant a Notice of Case Action informing her that her CDC application had been denied on the basis that she failed to return verification of an eligible provider/care arrangement. (Exhibit 3). The Department did not present a VCL or a provider verification form for review at the hearing, but stated that it assumes one was sent and that the requested verification of eligible provider was due ten days later.

At the hearing, Claimant testified that she did not provide verification of an eligible CDC provider because she was having difficulty finding an eligible provider in her area who would care for her one-year-old daughter. Claimant testified that all of the child care providers she contacted only cared for children older than her daughter. Claimant credibly testified that she contacted the Department to inform her case worker that she was unable to find an eligible provider. Claimant's testimony was confirmed by the Department and the Department further stated that Claimant called prior to the due date of the verifications.

According to BAM 105, the local office must assist clients who ask for help in completing forms or gathering verifications. BAM 105 (April 2014), p. 12. In addition, clients who request assistance in finding a licensed or registered CDC provider should be referred to Great Start Connect, the online web-based resource site where all active licensed and registered providers are searchable and if additional assistance is needed, clients can be referred to the Great Start to Quality Resource Center. BEM 704 (April 2014), p.7.

The Department acknowledged that it did not assist Claimant in finding an eligible provider in her area and there was no evidence presented to establish that the time limit was extended in order for Claimant to secure an eligible provider.

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 because Claimant did not indicate a refusal to provide the verification and contacted the Department seeking

assistance, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's CDC application on the basis that she failed to provide verification of her CDC provider arrangement.

DECISION AND ORDER

Accordingly, the Department's FIP and CDC decisions are 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 July 21, 2014, FIP and CDC applications;
2. Resolve any barriers to Claimant's participation in PATH;
3. Assist Claimant in securing an eligible CDC provider in accordance with Department policy;
4. Issue supplements to Claimant for any FIP benefits that she was eligible to receive but did not from the date of application ongoing;
5. Issue supplements to Claimant and her CDC provider for any CDC benefits that she was eligible to receive but did not from the date of application ongoing; and
6. Notify Claimant of its decision in writing.



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

Date Signed: **10/20/2014**

Date Mailed: **10/20/2014**

ZB / cl

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]