

**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.: 2014-14152
Issue No(s): 1001
Case No.: ██████████
Hearing Date: December 18, 2013
County: Wayne (76)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 December 18, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████, Case Manager.

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) application effective October 1, 2013, ongoing?

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 September 6, 2013, Claimant applied for FIP benefits. See Exhibit 1.
2. On September 6, 2013, the Department sent Claimant a Partnership. Accountability.Training.Hope. (PATH) Appointment Notice instructing the Claimant to attend the PATH orientation on September 16, 2013. Exhibit 1.
3. On September 16, 2013, Claimant failed to attend her scheduled orientation.
4. On October 14, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective October 1, 2013, ongoing, due to her failure to attend the PATH orientation. Exhibit 1.

5. On November 15, 2013, Claimant filed a hearing request, protesting her FIP denial. See Exhibit 1.

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.

Clients must complete a 21 day PATH application eligibility period (AEP) in order for their FIP application to be approved. BEM 229 (July 2013), p. 1. PATH participants must complete all of the following in order for their FIP application to be approved: begin the AEP by the last date to attend as indicated on the DHS-4785, PATH Appointment Notice; complete PATH AEP requirements; and continue to participate in PATH after completion of the 21 day AEP. BEM 229, p. 1. The Department denies the FIP application if an applicant does not complete all of the above three components of the AEP. BEM 229, p. 1.

The Department will automatically issue a DHS-4785, PATH Program Appointment Notice, at application, member add, or when a client loses a deferral to schedule an appointment for each mandatory PATH participant. BEM 229, p. 6. When assigned, clients must engage in and comply with all PATH assignments while the FIP application is pending. BEM 229, p. 6. PATH engagement is a condition of FIP eligibility. BEM 229, p. 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. The Department automatically denies FIP benefits for noncompliance while the application is pending. BEM 229, p. 6.

In this case, on September 6, 2013, Claimant applied for FIP benefits. See Exhibit 1. On September 6, 2013, the Department sent Claimant a PATH Appointment Notice instructing the Claimant to attend the PATH orientation on September 16, 2013. Exhibit 1. On September 16, 2013, Claimant failed to attend her scheduled orientation. The Department testified that it did not receive any contact from the Claimant regarding the scheduled orientation. On October 14, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP application was denied effective October 1, 2013, ongoing, due to her failure to attend the PATH orientation. Exhibit 1.

At the hearing, Claimant testified that she never received the PATH Appointment Notice. Claimant testified that she does not have mailing issues with her DHS

correspondence or third party mail. Moreover, Claimant testified that her address has remained the same throughout the FIP application period. Claimant also testified that she attempted to contact the Department multiple times throughout the month of November 2013 regarding the FIP application; however, she was unable to get a hold of a DHS caseworker. However, Claimant testified that she did not contact the Department in September 2013 at the time the PATH Appointment Notice was sent.

It should be noted that a review of the PATH Appointment Notice dated September 6, 2013, indicated that it was sent to Claimant's appropriate address. See Exhibit 1. The Department also testified that it did not receive any unreturned mail.

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Based on the foregoing information and evidence, it is found that the Claimant failed to rebut the presumption of proper mailing. The Department provided credible evidence and testimony that it properly sent the PATH Appointment Notice to the Claimant. Moreover, the Department did not receive any unreturned mail.

Additionally, Claimant also inferred that she should not have been referred to orientation and AEP due to an identified barrier, which was her medical conditions. Claimant testified that at the time of application she had provided the Department with a doctor letter dated August 27, 2013. The Claimant provided the doctor letter as an exhibit. See Exhibit A. However, Claimant testified that she did not indicate any medical disabilities and/or conditions on her application and that she only provided the doctor letter with her application. Moreover, Claimant provided as exhibits additional medical documents, which are after the application date and PATH Appointment Notice. See Exhibit A.

The Department testified that it never received any notice of her medical barrier until today's hearing. Moreover, the Department was supposed to provide a copy of Claimant's application as an exhibit; however, it was unable to locate the application.

At application, the registration support staff must provide clients with a DHS-619, Jobs and Self-Sufficiency Survey. BEM 229, p. 1. Specialists must do all of the following:

- 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.
 - Note: 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, pp. 1-2.

Based on the foregoing information and evidence, the Department properly did not defer the Claimant from the orientation and AEP based on Claimant's alleged medical barrier. BEM 229 states that the Department temporarily defers an applicant who has identified barriers, such as such as clients with serious medical problems or disabilities. BEM 229, pp. 1-2. However, the Department credibly testified that it did not receive any medical documentation and/or notice of Claimant's alleged medical conditions until today's hearing. See Exhibit A. Moreover, even though the Department was unable to obtain a copy of Claimant's application, Claimant herself testified that she did not indicate any medical disabilities and/or conditions on her application. Based on this information, it did not alert the Department of any identified barrier to temporarily defer the Claimant from the PATH orientation and AEP.

In summary, it is found that Claimant failed to rebut the presumption of proper mailing and the Department properly sent Claimant the PATH Appointment Notice to the correct address. Moreover, the Department properly did not defer the Claimant from the orientation and AEP. Claimant failed to attend her PATH orientation scheduled on September 16, 2013. Therefore, the Department acted in accordance with Department policy when it properly denied Claimant's FIP application effective October 1, 2013, ongoing.

DECISION AND ORDER

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 acted in accordance with Department policy when it properly denied Claimant's FIP application effective October 1, 2013, ongoing.

Accordingly, the Department's FIP decision is AFFIRMED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 20, 2013

Date Mailed: December 20, 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
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

EJF/cl

cc:

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