

**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.: 2014-22021
Issue No(s): 1001
Case No.: ██████████
Hearing Date: February 13, 2014
County: Wayne (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 February 13, 2014, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████████, Eligibility Specialist.

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 December 2, 2013, Claimant submitted an application for FIP benefits.
2. On December 10, 2013, the Department sent Claimant a PATH Appointment Notice instructing her to attend PATH orientation on December 23, 2013.
3. On December 30, 2013, the Department sent Claimant a Notice of Case Action informing her that her FIP application had been denied based on her failure to attend PATH orientation. (Exhibit 2)
4. On January 7, 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.

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.

In this case, Claimant submitted an application for FIP benefits on December 2, 2013. In connection with that application, Claimant was referred to PATH orientation for an appointment on December 23, 2013. The Department testified that because Claimant did not attend PATH orientation, her application was denied and a Notice of Case Action informing her of the denial was sent on December 30, 2013. (Exhibit 2).

At the hearing, Claimant credibly testified that she contacted her Department case worker on December 19, 2013, and informed her that Claimant would not be able to attend PATH orientation on December 23, 2013, because her children were home from school and she did not have any child care. Claimant stated that she was told by her Department worker that if she did not attend orientation, her application would be denied. Claimant's testimony was not refuted, as the Department representative present for the hearing was not Claimant's case worker.

After further review, there was no evidence presented to establish that Claimant was temporarily deferred from participation in PATH so that the barriers she identified could be removed. The Department was notified of the child care barriers that Claimant faced and these barriers were not resolved prior to Claimant being referred to PATH.

Under the facts in this case, where Claimant had identified barriers to her participation in PATH, the Department did not temporarily defer her from participation, and the Department did not remove the barriers prior to requiring Claimant to attend the PATH program, the Department has failed to satisfy its burden in establishing that it acted in accordance with Department policy when it denied Claimant's FIP application for a failure to attend PATH orientation.

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 2, 2013, FIP application;
2. Issue supplements to Claimant for any FIP benefits that she was eligible to receive but did not from the date of application ongoing; and
3. Notify Claimant of its decision in writing.



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

Date Signed: February 18, 2014

Date Mailed: February 19, 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:

