

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

IN THE MATTER OF:



Reg.No. 2014 33901
Issue No. 1008
Case No. [REDACTED]
Hearing Date: April 23, 2014
Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 April 23, 2014. The Claimant appeared and testified. [REDACTED], Hearing Facilitator appeared on behalf of the Department.

ISSUE

Whether the Department properly denied the Claimant's cash assistance (FIP application for failure to attend PATH Orientation).

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Claimant applied for Cash Assistance (FIP).
2. The Claimant and his wife were assigned to attend PATH orientation on February 10, 2014. The Claimant called his worker to reschedule the appointment due to the fact that his two children were ill.
3. The Department did not reschedule the Claimant's PATH appointment and denied the Claimant's FIP application on February 16, 2014 due to failure to attend Path Orientation.
4. The Claimant did not receive a new PATH appointment to attend Path orientation.
5. The Claimant requested a hearing on March 17, 2014 protesting the failure of the Department's actions denying his FIP application and discrimination.

CONCLUSIONS OF LAW

☒ 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.

As a condition to receiving FIP benefits, the Department policies require clients to participate in employment and self-sufficiency related activities and to accept employment when offered. BEM 233A All Work Eligible Individuals (“WEI”) are required to participate in the development of a Family Self-Sufficiency Plan (“FSSP”) unless good cause exists. BEM 228 As a condition of eligibility, all WEIs must engage in employment and/or self-sufficiency related activities. BEM 233A The WEI is considered non-compliant for failing or refusing to appear and participate with the Jobs, Education, and Training Program (“JET”) or other employment service provider. BEM 233A Good cause is a valid reason for noncompliance with employment and/or self-sufficiency related activities that are based on factors that are beyond the control of the noncompliant person. BEM 233A

In this case, the Claimant did not attend the PATH program appointment (first) as scheduled because his two children were very ill that day. On the day of the PATH appointment the Claimant called his worker to advise that his children were ill and that he and his wife could not attend the orientation. He left a message and did not receive a return call that day. Subsequently, he did speak with his case worker and advised that he had barriers to child care as the school they attended did not have latch key after school and he had no one to pick up the children or drop them off in the morning. He does have someone to watch the children after school but no one to pick them up. Additionally, the same problem occurs in the morning, as the school has no latch key. He has to drop the children off at school time and will be late for PATH. The Department also testified that the CDC program does not pay for transporting the children from school.

The Case Comments indicate that the Claimant and the case worker did discuss the problem but no PATH appointment was rescheduled, nor were the barriers discussed and some resolution determined as required by Department Policy.

In addition, the Claimant’s car was broken down and thus he and his spouse were reliant solely on the Detroit bus system.

The Department did not rebut the Claimant’s testimony that he called to reschedule the Path appointment for orientation. Under these circumstances it is determined that the Claimant’s PATH appointment should have been rescheduled by the Department due to

his children being ill. The Claimant also credibly testified that as the children were very ill, both parents were required to attend to the children as he was not sure whether a doctor visit would be necessary. It should be noted that in the future it is not likely that both parents will be excused from the Path program due to child illness. Based upon the facts as a whole it is determined that the Department was required to reschedule the appointment.

The last date for a client to make contact with PATH is 15 calendar days from the date of the PATH referral and the DHS-4785, PATH Appointment Notice, are sent. **If the client calls to reschedule before the 15th day, extend the Last Date for Client Contact on OSMIS. Either DHS or the one-stop service center have the capability of extending this date.** BEM 230 A pp.5, (10/1/13)

BEM 233A provides:
No Child Care

The client requested child care services from DHS, PATH, or other employment services provider prior to case closure for noncompliance and child care is needed for an eligible child, but none is appropriate, suitable, affordable and within reasonable distance of the client's home or work site.

- **Appropriate.** The care is appropriate to the child's age, disabilities and other conditions.
- **Reasonable distance.** The total commuting time to and from work and the child care facility does not exceed three hours per day.
- **Suitable provider.** The provider meets applicable state and local standards. Also, unlicensed providers who are not registered/licensed by the DHS Bureau of Children and Adult Licensing must meet DHS enrollment requirements; see BEM 704.
- **Affordable.** The child care is provided at the rate of payment or reimbursement offered by DHS. BEM 233A pp. 5, (7/1/13).

Based upon the evidence and testimony of the parties it is determined that the Claimant's failure to attend a PATH Orientation was due to the his children being ill and the Claimant's lack of child care before and after school transportation issues which may pose barriers to participation which were not addressed and lastly, the Department's failure to provide a new Path appointment. Therefore, it is determined that the Department improperly denied Claimant's FIP application. As regards to the Claimant's claim of discrimination, there were no facts in the record that would support that the Claimant was discriminated against.

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

Failed to properly deny the Claimant's application for FIP for failure to attend the 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. The Department shall re-register the Claimant's FIP application retroactive to the closure and provide the Claimant a new PATH Appointment Notice to attend the PATH Program and shall address any child care barriers the Claimant may have.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

2014 33901/LMF

Date Signed: April 28, 2014

Date Mailed: April 28, 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

LMF/tm

cc:

