

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg.No. 2014 7035
Issue No. 1008
Case No. ██████████
Hearing Date: February 10, 2013
Wayne (76)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on February 10, 2014. The Claimant appeared and testified. ██████████ FIS Worker, 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) on August 16, 2013 and August 23, 2013 and completed a FAST on August 26, 2013.
2. The Claimant was assigned to attend PATH orientation on September 23, 2013 and was turned away by the Work First program due to her number being out of sequence.
3. The Department denied the Claimant's application in January 2014 for failure to attend the PATH orientation and complete an AEP within 21 days. No Notice of Case Action was provided by the Department.
4. The Claimant did not receive a new PATH appointment orientation notice from the Department after the September 16, 2013 Notice.

5. The Department did not reschedule the PATH orientation appointment date.
6. The Claimant timely requested a hearing on October 8, 2013 protesting the failure of the Department's actions regarding her FIP application.

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.

HS requires 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 attend the Work First program appointment (first) as scheduled but through no fault of her own was turned away by the Work First program. The Claimant did not receive any subsequent appointment notices and none were produced at the hearing. The Claimant attempted to advise the Department that she needed a new notice because she was turned away because of number sequencing. The Department testified that it sent additional notices to attend but did not provide any dates or documentary evidence of the subsequent PATH Appointment Notices. The Department also did not provide a Notice of Case Action with the hearing summary; therefore, the date of the notice denying the application was not provided. However, the Department testified that the Claimant's application was denied for failure to complete 21 days in the PATH program. BEM 229 (7/1/13)

Based upon the Claimant's credible testimony, and the Department's failure to provide the subsequent PATH Appointment Notices it claimed to have sent, the Department did not meet its burden to show that it properly denied the Claimant's application. 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 Department's failure to provide a new appointment. Therefore, it is determined that the Department improperly denied

Claimant's FIP application and that Claimant's application must be re-registered and a new appointment notice issued. Upon completion of the Claimant's 21 days of PATH participation the Claimant will be eligible for benefits retroactive to her application. BEM 229 (7/1/13)

Under these circumstances the Department should not have denied the Claimant's FIP application or the subsequent application as she was entitled to be scheduled to attend PATH Orientation and receive an appointment notice. The Claimant did everything she was required to do to preserve her application and prevent her case from closing.

Based on the foregoing facts and testimony of the witnesses the Department should not have denied the Claimant's FIP application for failure to attend the PATH Program Orientation.

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 satisfy its burden of showing that it acted in accordance with Department policy when the Department improperly denied the Claimant's FIP application for failure to complete the 21 day PATH participation as it did not demonstrate it provide the Claimant with a new PATH appointment notice nor establish that the Claimant was afforded the opportunity 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. The Department shall re-register the Claimant's August 16, 2013 application for FIP Cash Assistance and process the application by providing the Claimant new PATH Appointment Notices to attend the PATH Program.

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2. Upon the completion of 21 days of PATH participation the Department shall issue a FIP supplement retroactive to the date of the application, if Claimant is otherwise eligible.


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

Date Signed: February 28, 2014

Date Mailed: February 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

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LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]