

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-017466
Issue No.: 1008
Agency Case No.: [REDACTED]
Hearing Date: November 18, 2015
County: WAYNE-DISTRICT 15

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on November 18, 2015, from Detroit, Michigan. The Petitioner was represented by Petitioner, [REDACTED]; and her witness, [REDACTED]. The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's Family Independence Program (FIP) application dated [REDACTED]?

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 [REDACTED], Petitioner applied for Cash Assistance benefits (FIP). See Exhibit A, pp. 9-23.
2. In the application, Petitioner reported a few barriers that would make it hard for her to go to work or the Partnership. Accountability.Training.Hope. (PATH) program, such as transportation issues, dependable child care, and medical problems and/or disabilities. See Exhibit A, pp. 14-16 and 21.
3. On [REDACTED], the Department sent Petitioner a PATH Appointment Notice instructing Petitioner to attend the PATH orientation on [REDACTED]. Exhibit A, p. 26.

4. On [REDACTED], Petitioner failed to attend her scheduled orientation.
5. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FIP application was denied effective [REDACTED], ongoing, due to her failure to attend the PATH orientation, and the household member failed to complete the required Family Automated Screening Tool (FAST) within 30 days of the notice. Exhibit A, pp. 5-8.
6. On [REDACTED], Petitioner filed a hearing request, protesting her FIP denial. See Exhibit A, pp. 2-3 and 24-25.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) 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-.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.

At the hearing, the Department testified that Petitioner did not indicate that she was disabled. See Exhibit A, p. 1 (Hearing Summary). Thus, the Department testified that Petitioner was scheduled to attend the PATH program. See Exhibit A, p. 1 (Hearing Summary). The Department testified that the application was denied because Petitioner did not attend the PATH program. See Exhibit A, p. 1 (Hearing Summary). The Department did not provide any testimony or evidence as to whether Petitioner failed to complete the required FAST within 30 days of the notice. See Exhibit A, pp. 5-8.

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.

Additionally, the Department issues a FAST Family Self-Sufficiency Plan (FSSP) notice (DHS-1535, FAST Referral Notice or DHS-1536, FAST Mandatory Notice) to all work eligible and non-work eligible individuals upon completion of the intake interview and after worker runs eligibility determination/benefit calculation (EDBC) in the Department's system (Bridges). BEM 229, p. 5. The participant's failure to submit the FAST within 30 days of the notice date is failure to meet eligibility requirements. BEM 228 (July 2013), p. 21. A task/reminder is sent to the specialist to deny the pending application for FIP. BEM 228, p. 21.

First, the undersigned finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's FIP application dated [REDACTED]. Petitioner's application was denied based on two reasons: (i) failure to attend the PATH orientation; and (ii) failure to complete the FAST notice. See Exhibit A, p. 6. Regarding the second denial reason, the Department did not provide any testimony or evidence that Petitioner did in fact fail to complete the FAST in accordance with Department policy. In the present case, the Department's testimony and evidence concentrated on the first denial reason, her alleged failure to attend PATH orientation. As such, the Department failed to satisfy its burden of showing that Petitioner failed to complete the required FAST within 30 days of the notice in accordance with Department policy. See BEM 228, p. 21 and BEM 229, p. 5.

Second, the undersigned finds that the Department did not act in accordance with Department policy when it denied Petitioner's FIP application dated [REDACTED]. In the application, Petitioner reported a few barriers that would make it hard for her to go to work or the PATH program, such as transportation issues, dependable child care, and medical problems and/or disabilities. See Exhibit A, pp. 14-16 and 21. BEM 229 states that the Department temporarily defers an applicant who has identified barriers, such as clients with serious medical problems or disabilities. BEM 229, pp. 1-2. In fact, policy states that clients should not be referred to orientation and AEP until it is certain that barriers have been removed. BEM 229, pp. 1-2. In this case, Petitioner clearly notified the Department of certain barriers at the time of application, and the Department should have not referred her to orientation until the barriers had been addressed. See BEM 229, pp. 1-2. Because the Department improperly referred Petitioner to the PATH orientation, the Department improperly denied her FIP application in accordance with Department policy. See BEM 229, pp. 1-2.

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 and did not act in accordance with Department policy when it denied Petitioner's Cash Assistance (FIP) application dated [REDACTED].

Accordingly, the Department's FIP 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. Initiate re-registration and reprocessing of Petitioner's Cash Assistance (FIP) application dated [REDACTED];
2. Issue supplements to Petitioner for any FIP benefits she was eligible to receive but did not from [REDACTED], ongoing; and
3. Notify Petitioner of its decision.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **11/19/2015**

Date Mailed: **11/19/2015**

EF / hw

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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

