

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-008071
Issue No.: 1008
Case No.: [REDACTED]
Hearing Date: July 8, 2015
County: Kalkaska

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on July 8, 2015, from Lansing, Michigan. Claimant personally appeared and testified. Participants on behalf of the Department of Health and Human Services (Department) included General Services Program Manager [REDACTED] and Family Independence Specialist [REDACTED].

ISSUE

Did the Department properly deny Claimant's Family Independence Program (FIP) benefits for the PATH program?

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 January 28, 2015, Claimant and her spouse applied for FIP benefits.
2. The Department approved Claimant's application for FIP benefits beginning January 28, 2015.
3. On February 18, 2015, Claimant's husband's primary care physician completed a Medical Needs – PATH (Form 54-E), which indicated Claimant's husband is unable to work due to seizures, and the inability to work would last more than 90 days and his spouse (Claimant) was needed in the home to provide care 24 hours a day. The physician opined Claimant's husband is not allowed to work, drive or be left alone. (Dept. Ex A, p 39).

4. On April 22, 2015, the Medical Review Team reviewed Claimant's application and medical records and denied Claimant's FIP benefits.
5. On May 18, 2015, Claimant submitted a Request for Hearing disputing the negative action.

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.

Claimant is disputing the Department's determination denying Claimants' FIP application. Claimant contends that she should have been granted a deferral due to her need to provide care for her husband 24 hours a day.

Department policy directs the Department to 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. BEM 229. This policy specifically notes that clients should not be referred for orientation and the work participation program 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.

Further, BEM 230A indicates that a spouse or parent who provides for a spouse or child with disabilities living in the home is not a WEI and is not referred to the work participation program if:

- The spouse/child with disabilities lives with the spouse/parent providing care;
and
- A doctor verifies all of the following in writing or by using a DHS-54A, Medical Needs form or DHS-54E, Medical Needs-Work Participation Program:
 - The spouse/child with disabilities requires a caretaker due to the extent of the disability.
 - The spouse/parent is needed in the home to provide care.
 - The spouse/parent cannot engage in an employment-related activity due to the extent of care required. BEM 230A.

In this case, the physician clearly specified on the DHS-54E, Medical Needs-PATH form, that Claimant is required to provide care 24-hours a day for her spouse, due to his disability. Because Claimant is required to be in the home 24 hours a day, it follows Claimant cannot engage in an employment-related activity due to the extent of care required.

As a result, this Administrative Law Judge is unable to find that the Department has produced sufficient evidence to show that the physician's statements are inaccurate and that Claimant is capable of engaging in employment-related activities (PATH). Claimant is found to have good cause for her medical deferral with the PATH program requirements, as her spouse is physically unfit for a job or employment activity, as shown by medical evidence that indicates disability-related limitations that preclude participation in a work and/or self-sufficiency-related activity and Claimant is required to be in the home 24 hours a day to provide care for her spouse.

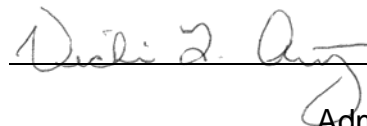
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Claimant's FIP benefits.

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. Reinstate FIP benefits back to the application date and any retroactive benefits that may be applicable in accord with Department policy.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/28/2015**

Date Mailed: **7/28/2015**

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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:

