

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

IN THE MATTER OF:

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MAHS Reg. No.: 15-022530
Issue No.: 1001;3000
Agency Case No.: ██████████
Hearing Date: January 21, 2016
County: Macomb-District 20

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 January 21, 2016, from Detroit, Michigan. Petitioner appeared for the hearing with his wife, ██████████ and represented himself. The Department of Health and Human Services (Department) was represented by ██████████, PATH Worker.

ISSUE

Did the Department properly process Petitioner's Food Assistance Program (FAP) benefits and deny his 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 or around October 22, 2015, Petitioner submitted an application for FAP and FIP benefits.
2. On an unverified date, Petitioner's FAP application was denied.
3. On October 22, 2015, the Department sent Petitioner a PATH Appointment Notice instructing his wife to attend PATH orientation on November 2, 2015. (Exhibit A)
4. On November 20, 2015, the Department sent Petitioner a Notice of Case Action informing him that his FIP application had been denied on the basis of a failure to attend PATH orientation.

5. On December 2, 2015, Petitioner requested a hearing disputing the Department's actions.

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).

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The hearing was requested to dispute the Department's action taken with respect to the denial of Petitioner's FAP application. Shortly after commencement of the hearing, Petitioner and his wife testified that the issue has since been resolved and the Department has corrected the action by registering and approving the application and supplementing the family for missed FAP benefits from the October 22, 2015 application date ongoing. Petitioner stated that he did not wish to proceed with the hearing concerning FAP and confirmed that no promises were made to him in exchange for his withdrawal. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request. Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing with respect to FAP is, hereby, **DISMISSED**.

FIP

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.

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. 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. The last day to attend AEP/orientation may be extended when necessary. BEM 229, pp.6-7. Failure by a client to complete the

three components of the AEP referenced above or to participate fully in assigned activities while the FIP application is pending will result in denial of FIP benefits. BEM 229, pp. 1, 6.

In this case, in connection with the FIP application, Petitioner and his wife were instructed to attend PATH orientation on November 2, 2015. Although Petitioner and his wife stated that they were both instructed to attend PATH orientation and both received PATH Appointment Notices, the Department only presented the PATH Appointment Notice referencing Petitioner's wife's participation. (Exhibit A). The Department testified that because Petitioner's wife did not attend PATH orientation, the application was denied and a Notice of Case Action advising of the denial was sent on November 20, 2015. Although the Department was instructed to fax this ALJ a copy of the Notice after the hearing, the Department failed to do so.

At the hearing, Petitioner and his wife confirmed receiving the PATH Appointment Notice and stated that she did not attend orientation on November 2, 2015, because her disabled daughter had a neurology appointment with her doctor. Petitioner's wife testified that she contacted the Department eight days prior to November 2, 2015, to inform her case worker that she needed to have the orientation date rescheduled but did not receive any response. Petitioner testified that he also made several other calls to the Department and left messages for his case worker. Petitioner provided a list that was reviewed in the hearing room which included the dates the calls were made. Petitioner's testimony was not refuted, as the Department representative present for the hearing was not Petitioner's case worker. The Department representative present for the hearing acknowledged that the PATH orientation appointment should have been rescheduled.

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 did not act in accordance with Department policy when it denied Petitioner's FIP application for a failure to attend PATH orientation.

DECISION AND ORDER

Accordingly, the hearing request with respect to FAP is **DISMISSED** and 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. Register and process Petitioner's October 22, 2015, FIP application;
2. Issue supplements to Petitioner for any FIP benefits that he was eligible to receive but did not from the date of application ongoing; and
3. Notify Petitioner of its decision in writing.



Zainab Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/29/2016**

Date Mailed: **1/29/2016**

ZB / tlf

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