



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: April 22, 2016  
MAHS Docket No.: 16-003438

[REDACTED]  
[REDACTED]

**ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie**

**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 April 13, 2016, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Manager.

**ISSUE**

Did the Department properly close the Petitioner's PATH and Food Assistance Program (FAP) cases due to the Petitioner's failure to provide required verification?

**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 Petitioner was a recipient of PATH and FAP.
2. On July 14, 2015, the Petitioner's Physician's Assistant submitted a Medical Needs-PATH, DHS 54E, on behalf of the Petitioner that was used by the Department to grant him a PATH deferral. Department Exhibit 15-16.
3. On December 10, 2015, the Department sent the Petitioner a PATH Appointment Notice, DHS-4785, for an appointment on December 21, 2015. Department Exhibit 9.

4. On December 28, 2015, the Department sent the Petitioner a Notice of Noncompliance, DHS-2444, because he had no initial contact with PATH, requiring him to attend a triage meeting on January 6, 2016. This was his 2nd non-compliance and his FIP case would be closed for 6 months. Department Exhibit 10-11.
5. On January 6, 2016, the Petitioner was a no call/no show for his PATH triage meeting and a determination was made that he did not have good cause for not participating in PATH. Department Exhibit 12.
6. On January 6, 2016, the Department sent the Petitioner a Medical Needs-PATH, DHS 54E, to be completed by a medical doctor to determine continued deferral for the Petitioner. Department 7-8.
7. On January 25, 2016, the Department sent the Petitioner a notice of his case closure due to non-participation in the PATH program. Department Exhibit 13-14.
8. On March 15, 2016, the Department received the completed Medical Needs-PATH, DHS 54E, that was completed by the Petitioner's Physician's Assistant who completed the accepted form in July 2015. Department 7-8.
9. On March 15, 2016, the Petitioner filed a hearing request, protesting 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).

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.

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.

In this case, the Petitioner was a recipient of PATH and FAP. On July 14, 2015, the Petitioner's Physician's Assistant submitted a Medical Needs-PATH, DHS 54E, on behalf of the Petitioner that was used by the Department to grant him a PATH deferral. Department Exhibit 15-16. On December 10, 2015, the Department sent the Petitioner a PATH Appointment Notice, DHS-4785, for an appointment on December 21, 2015. Department Exhibit 9.

On December 28, 2015, the Department sent the Petitioner a Notice of Noncompliance, DHS-2444, because he had no initial contact with PATH, requiring him to attend a triage meeting on January 6, 2016. This was his 2nd non-compliance and his FIP case would be closed for 6 months. Department Exhibit 10-11. On January 6, 2016, the Petitioner was a no call/no show for his PATH triage meeting and a determination was made that he did not have good cause for not participating in PATH. Department Exhibit 12.

On January 6, 2016, the Department sent the Petitioner a Medical Needs-PATH, DHS 54E, to be completed by a medical doctor to determine continued deferral for the Petitioner. Department 7-8. On January 25, 2016, the Department sent Petitioner a notice of his case closure due to non-participation in the PATH program. Department Exhibit 13-14. On March 15, 2016, the Department received the completed Medical Needs-PATH, DHS 54E, that was completed by the Petitioner's Physician's Assistant who completed the accepted form in July 2015. Department 7-8. On March 15, 2016, the Petitioner filed a hearing request, protesting the Department's actions. BAM 220. BEM 233A and 233B.

During the hearing, the Department conceded that they had accepted the prior Medical Needs form in error. However, when he submitted a subsequent form signed by a Physician's Assistant, the form was correctly denied by the Department. However, this issue could have been resolved by just informing the Petitioner that his form had to be signed by a Physician and not a Physician's Assistant. The Department should have explained to the Petitioner that the prior Department Caseworker accepted his prior Medical Needs form in error because it was not signed by a Physician. The Department should have then gave him a new form and additional time to have his Physician complete the form through a Verification Checklist.

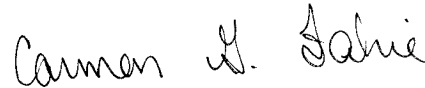
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed the Petitioner's FAP and PATH case instead of giving him the opportunity and additional time to have his Physician complete the Medical Needs form since the Department had previously accepted a form signed by his Physician's Assistant.

### **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. Initiate a redetermination of the Petitioner's eligibility for FAP and PATH retroactive to March 1, 2016 by sending a Verification Checklist, DHS 3503 and a Medical Needs-PATH, DHS 54E, for the Petitioner to provide verification of medical needs for PATH deferral.
2. Provide the Petitioner with written notification of the Department's revised eligibility determination.
3. Issue the Petitioner any retroactive benefits she/he may be eligible to receive, if any.



CF/

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**Carmen G. Fahie**

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

**DHHS**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED] [REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] [REDACTED]