



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR



Date Mailed: January 30, 2017  
MAHS Docket No.: 16-016859  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

### **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 [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator, and [REDACTED], Family Independence Specialist.

### **ISSUE**

1. Is the Petitioner entitled to Food Assistant Program (FAP) benefits based upon her need for food due to her being underweight due to a medical condition?
2. Did the Department properly deny the Petitioner's application for Family Independence Program (FIP)?

### **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 sent a Partnership.Accountability.Training.Hope (PATH) Appointment Notice on [REDACTED], requiring her to attend PATH on [REDACTED], at 8:30 a.m. Exhibit 2. The Petitioner received the PATH Appointment Notice. Exhibit 2.
2. The Department sent the Petitioner a Notice to Apply dated [REDACTED], which required the Petitioner to file an application for Supplemental Security

- Income (SSI) by [REDACTED]. The Department did not have any record that the Petitioner applied.
3. At the time of the hearing, the Petitioner had no issue regarding her Medical Assistance (MA) for herself and her children. The Petitioner withdrew her hearing request regarding her MA at the hearing, on the record.
  4. On [REDACTED], the Department sent a Notice of Case Action denying the Petitioner's FIP application due to failure to attend the PATH orientation. Exhibit 3.
  5. On [REDACTED], the Department sent the Petitioner a PATH Medical Needs Form to be completed by a doctor. Exhibit 4, pp. 13, 14.
  6. On [REDACTED], the Department sent Petitioner a Medical Determination Verification Checklist, which included a Medical Social Questionnaire and a Mental Residual Functional Capacity Assessment, both of which were due by [REDACTED]. Exhibit 4, pp. 5-16.
  7. The Petitioner was also sent a Medical Needs Form for PATH dated [REDACTED], [REDACTED] Exhibit 4.
  8. The Department reinstated the Petitioner's FIP application on [REDACTED], due to the Department's denial of Petitioner's FIP application being incorrect.
  9. On [REDACTED], the Department sent Petitioner a Verification Checklist (VCL) for Verification of Student Information for [REDACTED] and [REDACTED]. [REDACTED] the Petitioner's two minor children, with a due date of [REDACTED]. Exhibit 5 and Exhibit 4, pp. 15-16.
  10. The Petitioner requested a timely hearing on [REDACTED], 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.

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Health and Human Services (formerly known as the Department of Human Services) administers the SDA program pursuant to 42 CFR 435, MCL 400.10 and Mich Admin Code, R 400.3151-.3180.

In this case, the Petitioner applied for FIP Cash Assistance and was denied by the Department for failing to attend the PATH Program orientation, effective [REDACTED]. The Department sent the Petitioner the Notice denying her FIP application on [REDACTED]. Exhibit 2. Thereafter, the Department reinstated the Petitioner's FIP case and sought verifications from the Petitioner. At the time of the Petitioner's hearing request, received [REDACTED] the Department acknowledged that it had improperly denied the Petitioner's FIP application. Subsequently, recognizing its error, the Department reinstated/re-registered the FIP application and sent out verifications for Petitioner's children's school attendance and medical forms to support a medical deferral of Petitioner from the PATH Program.

Based upon these facts, the Department had corrected its initial error denying the application and properly sought verifications necessary to determine Petitioner's eligibility for FIP and medical verifications to support Petitioner's deferral from the PATH program. Unfortunately, at the hearing, the undersigned could not address the issue of whether the Department denied the Petitioner's FIP application a second time by Notice dated [REDACTED], as the Department's denial came **after** the Petitioner's [REDACTED], hearing request. The Petitioner must request another hearing regarding the Department's [REDACTED], denial of her FIP application for failure to return verifications. Emphasis supplied.

The Petitioner had applied for Cash Assistance on behalf of herself and her minor children. The Petitioner's hearing request disputed that she had intended to apply for FIP and that she was advised not to attend the PATH program because she had applied for SDA. The Department correctly considered the Petitioner's application, an FIP application, because Petitioner also applied for FIP for her minor children. The Petitioner claimed a deferral from attending the PATH Program due to disability, and as such, is required to verify medical information and return a Medical Needs Form to support a deferral from the PATH program. In addition, in order for the Department to determine FIP eligibility, Petitioner was also required to complete school attendance verifications for her two children. Whether the Department's subsequent denial of Petitioner's FIP application was correct **is not an issue** which can be decided by this Hearing Decision because the Department's subsequent denial of the FIP application

occurred **after** the Petitioner's hearing request dated [REDACTED], which is covered by this Decision.

At the hearing, the Petitioner raised a number of issues regarding why she could not complete the verifications, which also cannot be addressed based upon her current hearing request as no action by the Department had been taken at the time of the [REDACTED], hearing request regarding the verifications sought by the Department. The Department had a responsibility to seek verification of Petitioner's children's school attendance as a non-financial eligibility requirement to qualify for FIP. As regards school attendance, Department policy provides:

The Department is required to verify school enrollment at application and redetermination beginning with age 7. :

### **FIP Only**

Dependent children are expected to attend school full-time, and graduate from high school or a high school equivalency program, in order to enhance their potential to obtain future employment leading to self-sufficiency.

Dependent children ages 6 through 17 must attend school full-time.

A dependent child age 6 through 15 must attend school full-time. If a dependent child age 6 through 15 is not attending school full-time, the entire Family Independence Program (FIP) group is not eligible to receive FIP. BEEM 245, (January 1, 2017), p. 1

### **FIP Only**

A referral must be made to the local Intermediate School District's Attendance Officer if it is verified a dependent child age 6 to 17 is not enrolled/attending a public school or is not participating in an organized education program. Document in *Case Comments* in Bridges that a referral to the Attendance Officer has been made.

A referral may be made to Children's Protective Services if it is verified a dependent child age 6 to 17 is not enrolled/attending a public school or is not participating in an organized education program **and** the case worker suspects other forms of child abuse and neglect.

Thus, the Department correctly sought verification of school enrollment as required by Department policy.

As a preliminary matter, the Petitioner wanted the Department to allow her to apply for SDA (State Disability Assistance), a cash program for adults based upon disability, rather than FIP, which is a cash program to assist low income families with minor children.

Department policy provides an order in which FIP and SDA are considered, BEM 209 provides:

### **FIP, RCA and SDA**

The Family Independence Program (FIP), Refugee Cash Assistance (RCA) and State Disability Assistance (SDA) are cash assistance programs designed to help individuals and families become self-sufficient.

When an individual applies for cash assistance, Bridges determines group composition and builds an eligibility determination group (EDG) for these programs **in the following order: FIP, RCA and SDA**. Cash assistance is available to eligibility determination groups who meet all of the non-financial and financial requirements that are needed to determine eligibility and calculate benefit amounts. BEM 209, October 1, 2015, p. 1

In addition, several FIP non-financial eligibility requirements must be met, which are involved in this case, which include Employment and Self Sufficiency related Activities and School Attendance. BEM 209, pp. 1-2.

To be eligible for FIP, both of the following must be true:

- The group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker.
- The group cannot include an adult who has accumulated more than 60 TANF funded months, beginning October 1, 1996 or any other time limits in the Family Independence Program; see BEM 234. BEM 201 January 1, 2017, p. 1

For SDA the following requirements must be met:

### **SDA**

SDA is a cash program for individuals **who are not eligible for FIP** and are disabled or the caretaker of a disabled person. An SDA eligibility determination group (EDG) consists of either a single adult or adult and spouses living

together. See BEM 261 for disability criteria. BEM 214, (April 1, 2014), p. 1

Thus, based upon the Department policy above defining the basis for treating the Petitioner's cash assistance application as one for FIP based upon the fact that the group has two minor children, it is determined that the Department properly processed the Petitioner's application for cash assistance as an FIP application.

Based upon the Department's correction of its original denial of the FIP application, there is nothing further which the undersigned can decide as the denial of the FIP application for failure to provide verification was determined **after** the hearing request, which was the basis for the instant hearing.

The Petitioner also challenged the Department's current FAP benefit allotment based upon the fact that she had a weight problem and was underweight and needed more food benefits. As explained at the hearing, the Food Assistance Program and determination of benefits is based upon group size, group income and housing costs; there are no special allotments or other basis to increase Food Assistance benefits based upon special health needs requiring more Food Assistance benefits provided by Department policy. See BEM 212 FAP group composition; BEM 550 FAP income budgeting; BEM 554 FAP expenses and expense budgeting; RFT 250, FAP income limits; RFT 255, Food Assistance Standards and RFT 260 FAP issuance tables.

### **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 acted in accordance with Department policy when it determined and processed the Petitioner's application for cash assistance as an FIP application.

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 acted in accordance with Department policy when it calculated the Petitioner's FAP benefits and could not include additional FAP benefits based upon Petitioner's special dietary needs based upon her under weight problem.

Accordingly, the Department's decision is **AFFIRMED**.

The Petitioner withdrew her hearing request regarding her MA at the hearing on the record.

Accordingly the hearing request dated [REDACTED], regarding MA is hereby **DISMISSED**.

**It IS SO ORDERED.**

LMF/jaf



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**Lynn M. Ferris**

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]

**Petitioner**

[REDACTED]

[REDACTED]