



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: June 23, 2017
MAHS Docket No.: 17-006386
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. 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 June 21, 2017, from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's Family Independence Program (FIP) application effective April 16, 2017?

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 March 29, 2017, Petitioner applied for Cash Assistance benefits (FIP). [Exhibit A, pp. 5-11.]
2. On March 29, 2017, a telephone interview was completed with Petitioner in which she reported that she was pregnant and was currently on bed rest per her physician due to medical issues. [Exhibit A, p. 1.]
3. On April 3, 2017, the Department sent Petitioner a Partnership. Accountability. Training. Hope. (PATH) Appointment Notice instructing Petitioner to attend the PATH orientation on April 11, 2017. [Exhibit B, p. 1.]

4. On April 4, 2017, the Department sent Petitioner a Verification Checklist (VCL) requesting current documentation in order for Petitioner to be deferred from the PATH program due to her pregnancy complications and other requested documentation. The verifications were due back by April 14, 2017. [Exhibit A, pp. 13-14.]
5. On or about April 10, 2017, Petitioner submitted a doctor's note regarding her pregnancy; however, the Department found discrepancies in the verification. [Exhibit A, p. 12.]
6. On or about April 25, 2017, Petitioner contacted her caseworker in which she was informed that her doctor's note had contradictory information and her caseworker requested a new doctor's note. [Exhibit A, p. 1.]
7. On April 26, 2017, the Department sent Petitioner a Notice of Case Action notifying her that her FIP application was denied effective April 16, 2017, ongoing, due to her failure to attend the PATH orientation. [Exhibit B, pp. 2-4.]
8. On April 28, 2017, Petitioner filed a hearing request, protesting her FIP denial and her daughter's Medical Assistance (MA) benefits. [Exhibit A, pp. 2-3.]

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 Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matter

In this case, Petitioner also requested a hearing in which she disputed her daughter's MA benefits. [Exhibit A, pp. 2-3.] Shortly after commencement of the hearing, Petitioner indicated that she is no longer disputing the MA benefits. As such, Petitioner's MA hearing request is DISMISSED. See BAM 600 (April 2017), pp. 1-6. The undersigned Administrative Law Judge (ALJ) will only address the denial of Petitioner's FIP application below:

FIP application

Clients must complete a 21 day PATH application eligibility period (AEP) in order for their FIP application to be approved. BEM 229 (October 2015), 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, pp. 5-6. 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 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 with identified barriers until the barrier is removed.
- 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.

In this case, the Department's Hearing Summary indicated that Petitioner's application was denied based on her failure to return documents for her deferral from the PATH program. [Exhibit A, p. 1.] However, the undersigned disagrees. Instead, the Department denied her application based on her failure to attend the PATH orientation, as stated in the Notice of Case Action dated April 26, 2017. [Exhibit B, pp. 2-4.] If Petitioner was denied based on her failure to return the documents, the denial decision would have stated that reason. Nonetheless, despite the Department's issues with Petitioner's submitted doctor's note, the undersigned determined that the Department did not even process her application properly. On March 29, 2017, Petitioner applied for Cash Assistance benefits (FIP). [Exhibit A, pp. 5-11.] On March 29, 2017, a telephone interview was completed with Petitioner in which she reported that she was pregnant and was currently on bed rest per her physician due to medical issues. [Exhibit A, p. 1.] At this point, the Department was aware of Petitioner's barrier (pregnancy complications) in which she should not have been referred to orientation and AEP until the barrier is removed. See BEM 229, pp. 1-2. Specifically, BEM 229 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. However, the Department did not follow this policy and instead, referred her to orientation when it issued a PATH Appointment Notice on April 3, 2017. [Exhibit B, p. 1.] This action by the Department was improper because it should not have issued the PATH Appointment Notice until the barrier had been removed. See BEM 229, pp. 1-2.

Accordingly, 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. The Department is ordered to re-register and reprocess her application.

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 did not act in accordance with Department policy when it denied Petitioner's Cash Assistance (FIP) application effective April 16, 2017.

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 re-registration and reprocessing of Petitioner's Cash Assistance (FIP) application dated March 29, 2017;
2. Issue supplements to Petitioner for any FIP benefits she was eligible to receive but did not from April 6, 2017, ongoing; and
3. Notify Petitioner of its decision.

IT IS ALSO ORDERED that Petitioner's **MA** hearing request is **DISMISSED**.

EF/tm



Eric J. Feldman

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]

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

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