



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 31, 2017
MAHS Docket No.: 17-007317
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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a three-way telephone hearing was held on [REDACTED], from Detroit, Michigan. Petitioner was present for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Success Coach.

ISSUE

Did the Department properly deny Petitioner’s Family Independence Program (FIP) application effective [REDACTED]?

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 [REDACTED], Petitioner applied for FIP benefits.
2. On [REDACTED], the Department sent Petitioner a Partnership. Accountability.Training.Hope. (PATH) Appointment Notice (appointment notice) instructing her to attend the PATH orientation on [REDACTED]. [Exhibit A, p. 4.]
3. On the appointment notice, it stated “[i]f you do not call or appear within 15 days of this notice, your application will be denied.” [Exhibit A, p. 4.]
4. Petitioner failed to attend the PATH orientation on [REDACTED], or within 15 days of the appointment notice being issued (due date of [REDACTED]).

5. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her FIP application was denied effective [REDACTED], ongoing, due to her failure to attend the PATH orientation. [Exhibit A, pp. 7-8.]
6. On [REDACTED], Petitioner filed a hearing request, protesting her FIP denial and Food Assistance Program (FAP) 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 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.

Preliminary matter

On [REDACTED], Petitioner filed a hearing request, in which she also protested the reduction of her FAP benefits to \$ [REDACTED] effective [REDACTED]. [Exhibit A, pp. 2-3.] On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that she was approved for FAP benefits in the amount of \$ [REDACTED] effective [REDACTED] [Exhibit B, pp. 2-3.] Based on this information, the undersigned lacks the jurisdiction to address Petitioner's dispute with the FAP benefits because her hearing request was not filed within 90 days of the Notice of Case Action dated [REDACTED] [REDACTED]. Policy states the client or Authorized Hearing Representative (AHR) has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (October 2015), p. 6. The request must be received in the local office within the 90 days. BAM 600, p. 6. Therefore, because Petitioner's FAP hearing request was not filed within 90 days of the Notice of Case Action dated [REDACTED], her FAP hearing request is DISMISSED for lack of jurisdiction. See BAM 600, p. 6. However, the undersigned does have the jurisdiction to address Petitioner's dispute with the denial of her FIP application.

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.

In this case, on [REDACTED], the Department sent Petitioner an appointment notice instructing her to attend the PATH orientation on [REDACTED]. [Exhibit A, p. 4.] Petitioner failed to attend the PATH orientation on [REDACTED]. However, the appointment notice states “[i]f you do not call or appear within 15 days of this notice, your application will be denied.” [Exhibit A, p. 4.] What this means is as long as Petitioner calls by the 15th day of this appointment notice, which was [REDACTED], the Department could have rescheduled her orientation. On [REDACTED], the Department testified that Petitioner contacted her (the Success Coach present for the hearing) and Petitioner reported that she had failed to attend orientation due to being out of town for a funeral. [Exhibit A, p. 1.] But, as stated above, the Department argued she only had until [REDACTED], to request a new orientation date; and because she contacted the Department after this date, her FIP application was denied for failure to attend the orientation.

In response, Petitioner indicated that she was out of town during the period of the orientation. She testified that she arrived back in town on [REDACTED], and called her Success Coach (who is present for the hearing) and informed her that she was out of town and if she could reschedule. Petitioner testified the Success Coach stated she would try to get the paperwork in to see if she could attend the orientation. On [REDACTED] [REDACTED] Petitioner testified that she again spoke to her Success Coach who stated she forgot to submit the paperwork in order to have her attend the orientation; and it was too late to reschedule the appointment as this point. In summary, Petitioner argued that she did contact the Department by the 15th day from the date the appointment notice was issued; and therefore, the Department should have rescheduled her orientation.

The Department testified that it never received any contact from Petitioner on [REDACTED] [REDACTED] or [REDACTED].

The last date for a client to make contact with PATH is 15 calendar days from the date of the PATH referral and the DHS-4785, PATH Appointment Notice, are sent. BEM 230A (October 2015), p. 5. If the client calls to reschedule before the 15th day, the Department extends the Last Date for Client Contact on One-Stop Management Information System (OSMIS). BEM 230A, p. 5. Either the Department or the one-stop service center have the capability of extending this date. BEM 230A, p. 5, and see also BEM 229, p. 7, (Either the Department or the one-stop service center may extend the

last day the client has to attend AEP/orientation when necessary. Extend this date directly on OSMIS before the 15th day passes).

Based on the foregoing information and evidence, the Department properly denied Petitioner's FIP application effective [REDACTED], in accordance with Department policy. As shown in the above policy, Petitioner would have had to call the Department by the 15th day from the date the appointment notice was sent, which was [REDACTED] in order to reschedule her orientation date. BEM 230A, p. 5. The Department presented credible testimony and evidence showing that Petitioner failed to call by [REDACTED]. The Department presented a Hearing Summary (DHS-3050), which stated that Petitioner contacted the Department on [REDACTED], which was after the time period she could have rescheduled her orientation date. [Exhibit A, p. 1.] The Hearing Summary bolsters the Department's testimony that Petitioner failed to call by the 15th day. Petitioner claimed that she called the Department on [REDACTED], and [REDACTED], but she failed to provide any documentation, such as phone records, showing that she contacted the Department on these dates.

Accordingly, the undersigned finds that the Department established by preponderance of evidence that Petitioner failed to attend the PATH orientation on [REDACTED], or that she contacted the Department within 15 days of the appointment notice; and therefore, the FIP application was properly denied.

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 properly denied Petitioner's FIP application effective [REDACTED].

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

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

EJF/jaf



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]

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]

[REDACTED]
[REDACTED]
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