

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 200931282
Issue No: 1001
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 25, 2009
St. Joseph County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on August 25, 2009.

ISSUE

Was the claimant's FIP benefits properly placed into closure because claimant's grandson was incarcerated?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

- (1) Claimant received FIP on behalf of her grandson in St. Joseph County.
- (2) Claimant's grandson was incarcerated for 60 days in [REDACTED].
- (3) Claimant's FIP benefits were subsequently placed into closure.

- (4) Claimant's FIP case closed on July 8, 2009.
- (5) After an inquiry, claimant was mailed a DHS-1171, Assistance Application, on July 14, 2009.
- (6) Claimant inquired about reapplying for FIP on July 27, 2009.
- (7) Claimant was advised that the case was closed, and claimant should complete an application.
- (8) Claimant was also advised that, because her grandson had turned 19 over the summer, his high school participation would have to be evaluated before FIP could be approved.
- (9) Claimant requested a hearing on July 27, 2009, stating that the group situation hadn't changed, and FIP should have remained open.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or Department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

A claimant may not receive FIP benefits on behalf of an eligible child if either is incarcerated more than 30 days. BEM 265 states:

A person in an institution other than a hospital, psychiatric hospital, or residential substance abuse treatment center for more than 30 days is not eligible. Presume that a person placed in an

institution will remain there more than 30 days **unless** a shorter stay is verified. BEM 265.

Claimant argues that the FIP case should never have closed, as the group situation did not change. The undersigned respectfully disagrees.

An FIP group must contain an eligible child in order to receive FIP benefits. BEM 210. When claimant's grandson was incarcerated for 60 days—a fact that was verified by claimant and the booking deputy at the [REDACTED]—claimant's grandson lost eligibility. While claimant's grandson's stay may have been shorter, this was never verified to the Department, and BEM 265 states that a greater than 30 day presumption is warranted unless a shorter stay is verified. With no eligible child in the FIP group, the case was required by policy to close.

Therefore, the Department was correct when they placed claimant's case into closure.

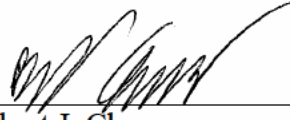
With respect to claimant's contention regarding the Department's need to verify claimant's grandson's high school status for the reopening of the case, the undersigned only notes that the Department had, at the time of the hearing request, not taken any negative action. BAM 600 requires a negative action for an issue to be ripe for administrative review. That is not the case, and therefore, the undersigned cannot rule upon claimant's issue with the Department's request for verifications.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was correct when it terminated claimant's FIP benefits.

Accordingly, the Department's decision in the above stated matter is, hereby,

AFFIRMED.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/21/10

Date Mailed: 01/22/10

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

RJC/dj

cc:

