

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201033681
Issue No.: 1022
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: October 18, 2010
Office: Wayne County DHS (35)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on October 18, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly terminated Claimant's Family Independence Program (FIP) benefits due to Claimant's alleged failure to meet the group requirements for FIP benefits.

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 was an ongoing FIP recipient.
2. Claimant was part of a two person FIP group which included herself and her child, [REDACTED] (DOB 12/15/91).
3. On an unspecified date, DHS requested information concerning whether Claimant's child was or was not attending high school.
4. On 12/16/91, DHS received a Verification of Student Information (Exhibit 1) which stated that Claimant's child was attending high school and expected to complete high school by 6/2011.

5. DHS was suspicious of the authenticity of the Verification of Student Information as it contained information which was clearly altered.
6. DHS subsequently requested information of Claimant's child's attendance status directly from [REDACTED] school.
7. [REDACTED] school subsequently verified to DHS via letter (Exhibit 2) that [REDACTED] is expected to graduate by 6/2011, though was expected to graduate 6/2010, but will not due to his failure to attend high school consistently in the 6/2010 school year.
8. On 2/19/10, DHS mailed Claimant a notice of FIP benefit termination to be effective 3/1/10 due to Claimant's failure to meet the group requirements for FIP eligibility.
9. On 3/19/10, 5/6/10 and 6/2/10, Claimant requested a hearing disputing the termination of FIP benefits.
10. Claimant also requested a hearing on 2/11/10 concerning a FIP benefit termination based apparently on a failure to participate with employment-related activities though there is no basis that Claimant's FIP benefits were terminated for that reason.

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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

To be eligible for FIP, a child must live with a legal parent, stepparent or other qualifying caretaker. BEM 210 at 1. A dependent child is an unemancipated child who lives with a caretaker and is either:

- under age 18;
- or age 18 or 19 and a full-time high school student expected to graduate before age 20. *Id.*

For FIP benefits, a child must be enrolled in and attending a school. BEM 245 at 2. A child is considered as still meeting the school attendance requirement during official school vacations or periods of extended illness, unless there is an indication that they do not intend to return to school. Schools determine the child's level of enrollment, (i.e. full-time, half-time, or part -time) and attendance compliance. *Id* at 4.

In the present case, it was not disputed that Claimant's only basis for receiving FIP benefits was by being a caretaker to her child [REDACTED]. T [REDACTED] date of birth is 12/15/91. It is not disputed that Claimant meets the FIP benefit requirements, if it is found that [REDACTED] is a full-time high school student, as he is currently age 19 and expected to graduate high school by age 20. DHS contended that Claimant's son failed to meet the high school attendance requirements due to his sporadic attendance and should not be considered a dependent child for purposes of FIP benefits.

The Verification of Student Information (Exhibit 1) verified that Claimant's son was a full-time high school student though the school failed to answer the question, "Attendance: regularly attending, sometimes attending or not attending". Claimant's child's school instead attached attendance records which shed some light on the child's attendance. From 1/20/10-3/12/10, it was verified that [REDACTED] had zero days where he attended every class. On 21 of the 29 days within the time period, [REDACTED] missed at least five of his seven classes. The undersigned calculated that [REDACTED] was absent or tardy 149 times out of 203 classes. The school attendance by [REDACTED] was so bad that it cannot be reasonably concluded that he was attending high school at the time DHS terminated Claimant's FIP benefits. No basis was provided to excuse Claimant's child's absences from school. It is found that Claimant's child was not a high school student as required by DHS regulations. Due to Claimant's child's failure to meet the high school attendance requirements, Claimant's child is not a dependent child as defined by FIP group composition policy. Accordingly, Claimant is not eligible for FIP benefits.

Though it is found that Claimant's child was not attending school at the time of Claimant's FIP benefit termination, Claimant may reapply for FIP benefits at any time. If Claimant's child is attending school at the time of Claimant's new application, Claimant may be eligible for FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefits due to Claimant's failure to meet the FIP benefit group composition requirements. The actions taken by

201033681/CG

DHS are AFFIRMED.



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: November 16, 2010

Date Mailed: November 16, 2010

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

CG/hw

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