

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 201134707
Issue No. 1000; 1001
Case No. [REDACTED]
Hearing Date: July 13, 2011
Macomb (36)

ADMINISTRATIVE LAW JUDGE: Yasmin J. Elias

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on July 13, 2011. The Claimant appeared and testified. [REDACTED], Family Independence Manager appeared and testified for the Department of Human Services (DHS).

ISSUE

Whether DHS terminated Claimant from the Family Independence Program (FIP) in accordance with its policies and procedures?

FINDINGS OF FACT

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

1. In 2011, the Claimant was a FIP recipient, based on a finding that she was the caretaker of an underage son who was attending school.
2. In April 2011, the Claimant's son turned 18 years old.
3. On 4/1/2011, the DHS sent at a Verification of Student Information form to the Claimant regarding her son's status, with a due date of completion by 4/30/2011.
4. In order to remain eligible for FIP benefits as a caretaker, the Claimant had to be able to demonstrate that she was the caretaker of a child who, although over 18, was still attending school and was expected to graduate prior to his 20th birthdate.

5. The Claimant took the DHS Verification form to her son's school as required, but the school secretary answered with a "?" the question as to the Claimant's son expected date of graduation.
6. The lack of confirmation that the Claimant's 18 year old son was expected to graduate before he turned 20 resulted in a case closure notification being sent to the Claimant on April 18, 2011, effective May 1, 2011.
7. The Claimant Requested a Hearing regarding this decision on April 27, 2011.

CONCLUSIONS OF LAW

FIP was established by the U.S. Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules (MACR) 400.3101-400.3131. Department policies are found in Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM) and Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

For all programs, DHS must request verifications when required by policy. BAM 130 at 1. Verification means documentation or other evidence to establish the accuracy of the client's verbal or written statements. BAM 130 at p. 1. Verification is usually required at application or redetermination. BAM 130 at p. 1. In obtaining verifications, DHS must tell the client what verification is required, how to obtain it, and the due date. BAM at p 2.

Pursuant to BEM 210, a caretaker is a legal parent or stepparent living in the home, or when no legal parent or stepparent lives in the home, another adult who acts as a parent to a dependent child by providing physical care and supervision. A dependent child is an unemancipated child who lives with a caretaker and is either under the age of 18 or is age 18 or 19 and a full-time high school student expected to graduate before age 20. BEM 210 at p. 1. For FIP benefits only, children ages 18 or 19 must attend high school full time and be reasonably expected to graduate by age 20, as a condition of eligibility. BEM 245 at p. 1. A child is to be considered as still meeting school attendance requirements during official school vacations or periods of extended illness, unless there is an indication that they do not intend to return to school. BEM 245 at p. 2.

In the present case, DHS terminated Claimant's FIP benefits based on an unacceptable or incomplete answer provided by the Claimant's son's school on the school verification form. The school secretary failed to confirm when the Claimant's son was expected to graduate, and instead answered the form's question with a question mark. It was not

disputed that this was a valid requirement by DHS. However, it was also not disputed that the Claimant acted diligently in having the form filled out by her son's school secretary and returning the form to DHS within the time frame specified by DHS.

The Claimant testified that when the form was completed by her son's school, in mid-April 2011, the school semester was not over and it was unclear whether her son would be able to obtain all the necessary credits for graduation. She also testified that as it turned out, her son was unable to earn the last .5 credits necessary for graduation before the end of the regular 2010-2011 school year. However, she further testified that he is attending summer school and is seeking to earn the last missing credits. The Claimant's testimony in this regard was not disputed.

Based on the foregoing, DHS proposed that Claimant's FIP benefits be reinstated, as it appears that the Claimant's son is still an eligible dependent. It was further agreed that DHS may make requests for verification of his continued school attendance and reasonable expectation of graduation before the age of 20, in compliance with their regulations. The Claimant agreed to the DHS proposal.

MCL 24.278(2) and MSA 3.560(178)(2) provide that a contested administrative case may be disposed of by stipulation of the involved parties. Because of the aforementioned agreement, it is unnecessary for the undersigned to resolve this issue as the involved parties have agreed to a settlement.

DECISION AND ORDER

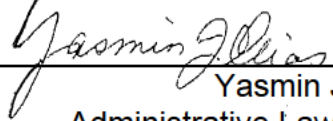
The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds:

The actions taken by DHS in terminating the Claimant's FIP benefits are REVERSED. It is ordered, based upon the agreement of the parties, DHS shall:

1. Reinstatement the Claimant's FIP benefits, effective May 1, 2011.
2. Supplement for lost benefits (if any) that the Claimant was entitled to receive, if otherwise eligible and qualified, in accordance with Department policy.

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All steps taken by DHS shall be in accordance with this opinion and DHS policies and procedures.



Yasmin J. Elias
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 15, 2011

Date Mailed: July 15, 2011

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 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.

YE/hw

cc:

