

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-39817
Issue No.: [REDACTED]
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County: Washtenaw DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on [REDACTED], from Lansing, Michigan.

On [REDACTED], this Administrative Law Judge granted the Claimant's request for an adjournment at the Claimant's request due to his lack of English language abilities and the Department was ordered to make a translator available. On [REDACTED], the Claimant's attorney, [REDACTED] submitted her notice of appearance. On [REDACTED] this Administrative Law Judge denied the Department's request for an adjournment after finding that Claimant's attorney had provided timely notice of her appearance and no good cause to grant an adjournment had been established.

Participants on behalf of Claimant included [REDACTED] and his attorney [REDACTED]. The Department provided a translator, [REDACTED], since the Claimant was unable to effectively communicate in English. Participants on behalf of Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Family Independence Program (FIP) eligibility?

FINDINGS OF FACT

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

1. The Claimant applied for Family Independence Program (FIP), Medical Assistance (MA), and Food Assistance Program (FAP) benefits on [REDACTED].
2. On [REDACTED], the Department determined that the Claimant was not eligible for Family Independence Program (FIP) benefits based on the information provided in the Claimant's application for assistance.
3. The Department received the Claimant's request for a hearing on [REDACTED] protesting the denial of Family Independence Program (FIP) benefits.

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The non-financial requirements of the Family Independence Program (FIP) are summarized in Department of Human Services Bridges Eligibility Manual (BEM) 209. One of the non-financial requirements is that dependent children age 6 through 15 must attend school full-time. Department of Human Services Bridges Eligibility Manual (BEM) 245 (July 1, 2013), p 1. The Department is permitted to accept the client's statement that a 6 year old is enrolled and attend school, but is required to verify school enrollment and attendance at application for children beginning with age 7. BEM 245, p 7.

In this case, the Claimant submitted an application for Family Independence Program (FIP) benefits on March 13, 2013. His application indicated that two of his children, ages 9 and 11, were not in school. Based on this statement provided by the Claimant, the Department denied the Claimant's application for benefits on March 13, 2013.

The Claimant's attorney argued that the Department failed to consider the Claimant's immediate eligibility for cash assistance as a refugee.

Refugee Cash Assistance (RCA) is a federal program that helps refugees become self-sufficient after their arrival in the United States and is available for refugees who are not

eligible for Family Independence Program (FIP) benefits. Department of Human Services Bridges Eligibility Manual (BEM) 215 (November 1, 2012), p 1.

However, where there is potential Family Independence Program (FIP) eligibility, the benefit group must take all actions available to obtain FIP benefits and failure to do so results in group RCA ineligibility. BEM 215.

The Claimant testified that he and his family arrived in the United States as a refugee on March 4, 2013. The Claimant submitted an application for Family Independence Program (FIP) benefits on April 12, 2013, and his application includes a statement that his children would be enrolled in school within two weeks.

Before the Department determines the Claimant's eligibility to receive benefits, it is required to give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. Verification is not required when the client is clearly ineligible. Department of Human Services Bridges Assistance Manual (BAM) 130 (May 1, 2012), p 6.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that at the time of application the Claimant was potentially eligible for Family Independence Program (FIP) benefits, there was no discrepancy as to whether the Claimant's children were attending school, and the Claimant clearly did not meet the non-financial requirements of the Family Independence Program (FIP) program.

Although the Claimant's statements indicated that he intended to fulfill the school attendance requirement for the receipt of cash benefits, at the time of application this requirement was not met.

This Administrative Law Judge finds that there is no basis in policy for the Department to delay making an eligibility determination until a client potentially meets the criteria.

Administrative Law Judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations, or make exceptions to the department policy set out in the program manuals. Furthermore, administrative adjudication is an exercise of executive power rather than judicial power, and restricts the granting of equitable remedies. *Michigan Mutual Liability Co. v Baker*, 295 Mich 237; 294 NW 168 (1940).

Therefore, this Administrative Law Judge finds that the Department was acting in accordance with policy when it denied the Claimant's application for Family Independence Program (FIP) benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly denied the Claimant's application for Family Independence Program (FIP) benefits.

The Department's Family Independence Program (FIP) eligibility determination is **AFFIRMED**. It is **SO ORDERED**.

/S/

Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 06/12/2013

Date Mailed: 06/12/2013

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing MAY be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration MAY be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

2013-39817/KS

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cc:

