

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

IN THE MATTER OF:

██████████
████████████████████
████████████████████

Reg. No.: 2013-64421
Issue No.: 1007; 2000
Case No.: ██████████
Hearing Date: December 5, 2013
County: Wayne (98)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant'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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a three-way telephone hearing was held on December 5, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department or DHS) included ██████████ ██████████ Success Coach.

ISSUE

Did the Department properly close Claimant's Family Independence Program (FIP) benefits effective September 1, 2013, ongoing, due to Claimant's child not being compliant with school attendance requirements?

FINDINGS OF FACT

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

1. Claimant was an ongoing recipient of FIP benefits. See Exhibit 1.
2. Claimant's daughter is 15-years-old.
3. Claimant's daughter's had numerous suspensions along with unexcused absences for the 2012 – 2013 school year.
4. On July 29, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective September 1, 2013, ongoing, due to

Claimant's child not being compliant with school attendance requirements. Exhibit 1.

5. On August 9, 2013, Claimant filed a hearing request, protesting the FIP case closure and Medical Assistance (MA) benefits closure. Exhibit 1.
6. On September 23, 2013, the Michigan Administrative Hearing System (MAHS) sent Claimant a Notice of Hearing, which scheduled Claimant for a three-way hearing on October 10, 2013. See Exhibit 1.
7. On October 15, 2013, an Order of Dismissal was sent Claimant due to her failure to arrive at the office for the hearing. See Exhibit 1.
8. On November 8, 2013, Claimant submitted a request to vacate the dismissal order. See Exhibit 1.
9. On November 18, 2013, the Supervising Administrative Law Judge sent Claimant an Order Vacating the Dismissal and Order to Schedule Matter for Hearing. See Exhibit 1.
10. On November 19, 2013, the MAHS sent Claimant a Notice of Hearing, which scheduled Claimant for a three-way hearing on December 5, 2013. See Exhibit 1.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

As a preliminary matter, Claimant also filed a hearing request in which she was protesting the MA benefits. See Exhibit 1. However, it was discovered during the hearing that Claimant is no longer disputing such benefits. Thus, Claimant's MA hearing request is DISMISSED.

For FIP cases, dependent children are expected to attend school full-time, and graduate from high school or a high school equivalency program, in order to enhance their potential to obtain future employment leading to self-sufficiency. BEM 245 (July 2013), p. 1. Dependent children ages 6 through 17 must attend school full-time. BEM 245, p. 1.

A dependent child age 6 through 15 must attend school full-time. BEM 245, p. 1. If a dependent child age 6 through 15 is not attending school full-time, the entire FIP group is not eligible to receive FIP. BEM 245, p. 1; See also BEM 240 (July 2013), p. 1.

Dependent children ages 6 through 18 must meet one of the conditions described below:

- A child age 6 through 17 must be a full-time student.
- A child age 18 must attend high school full-time until either the child graduates from high school or turns 19, whichever occurs first.

BEM 245, p. 2. A dependent child must be enrolled in and attending a school as defined in BEM 245. BEM 245, p. 2.

The Department considers a dependent child as still meeting the school attendance requirement during official school vacations or periods of extended illness, unless information is provided by the client that the dependent child does not intend to return to school. BEM 245, p. 3.

For FIP cases, the schools determine:

- The level of enrollment (such as full-time, half-time, or part-time).
- Attendance compliance.
- Suspensions (such as reasons for/duration).

BEM 245, p. 5.

The Department verifies school enrollment and attendance at application and redetermination beginning with age 7. BEM 245, p. 8. The Department can verify school enrollment and attendance with a telephone contact with the school or other acceptable documentation that is on official business letter or other verification sources listed in BEM 245. BEM 245, p. 9.

In this case, Claimant was an ongoing recipient of FIP benefits. See Exhibit 1. Claimant's daughter is 15-years-old. The Department testified that Claimant's child had missed over 85 school calendar days for the 2012 – 2013 school year. The Department testified that the child had accounted for 47 days of unexcused absences and 38 days suspension days. Furthermore, the Department testified that the child had received several breaks and counseling sessions with the Assistant Dean of Students, the School Social Worker, and the Department. The Department testified that meeting with the Claimant has not yielded much progress and her child was suspended on June 25,

2013. The Department testified that a parent was required to have a conference with the administration prior to returning to school. On July 24, 2013, the Department testified that Claimant made an attempt to have a conference with the administration, but 30 days had lapsed at this point and the attendance office filed the paperwork with the court for poor attendance. Thus, on July 29, 2013, the Department sent Claimant a Notice of Case Action notifying her that her FIP benefits would close effective September 1, 2013, ongoing, due to Claimant's child not being compliant with school attendance requirements. Exhibit 1.

It should be noted the Department presented as evidence the daughter's school attendance records for the 2012 – 2013 school year. See Exhibit 1. A review of these documents indicates multiple short-term suspensions, suspensions, and absences throughout the school year. See Exhibit 1.

Claimant did not dispute her daughter's attendance records and suspensions for the 2012 – 2013 school year. However, Claimant testified that her daughter became pregnant in January 2013 and the baby was born on October 6, 2013. Moreover, Claimant's testimony indicates that her daughter is participating in school full-time for the current calendar year. Claimant testified that her child has been attending school since the start of the school beginning September 2013. Claimant testified that her daughter did receive six-weeks off due to her child being born; however, she was still doing her school work activity during the six-week break. Claimant testified that the school recognized her as a full-time student during the six-week break.

Based on the foregoing information and evidence, the Department properly closed Claimant's FIP benefits effective September 1, 2013, ongoing, in accordance with Department policy.


First, Claimant did not dispute her daughter's attendance records and suspensions for the 2012 – 2013 school year. Second, even though her daughter was pregnant in January 2013, the evidence indicated that the child had poor attendance records and suspensions before the pregnancy. A review of these documents indicates multiple short-term suspensions, suspensions, and absences throughout the school year. See Exhibit 1. Third, a dependent child age 6 through 15 must attend school full-time. BEM 245, p. 1. The school determines the level of enrollment, attendance compliance, and suspensions. See BEM 245, p. 5. The Department presented credible evidence and testimony that Claimant's daughter (who is 15-years-old) was not attending school full-time. See Exhibit 1. Moreover, the Department credibly testified the attendance office filed the paperwork with the court for poor attendance. It is evident that Claimant's daughter is fully participating in the current school year; however, the Department's negative action and notice of case closure are based on incidents from the prior school year. As such, the Department has presented credible evidence and testimony that Claimant's daughter was not being compliant with school attendance requirements and was not attending school full-time. Because the child is between the ages of 6 through 15, the Department properly closed the entire FIP group's case effective September 1, 2013, ongoing. BEM 240, p. 1 and BEM 245, p. 1.

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 closed Claimant's FIP benefits effective September 1, 2013, ongoing.

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

IT IS ALSO ORDERED that Claimant's MA hearing request is **DISMISSED**.


Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: December 13, 2013

Date Mailed: December 13, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

2013-64421/EJF

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

EJF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]