

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 2014-10241  
Issue No(s): 1007  
Case No.: [REDACTED]  
Hearing Date: December 17, 2013  
County: Mecosta County DHS

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

**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 telephone hearing was held on December 17, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] Family Independence Specialist, and [REDACTED] [REDACTED] Assistance Payments Supervisor and Hearing Coordinator.

**ISSUE**

Did the Department properly close the Claimant's Family Independence Program (FIP) case for not meeting student enrollment/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. The Claimant's FIP case was due for Redetermination in October 2013.
2. The Verifications of Student Information completed by the school indicated the Claimant's daughters do not attend on a regular basis.
3. The Department determined that the submitted information did not establish student enrollment/attendance requirements were met.
4. On October 17, 2013, a Notice of Case Action was issued to the Claimant.
5. On October 28, 2013, the Claimant filed a Request for Hearing contesting the Department's action.

## **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 MC L 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

Additionally, 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. For FIP, when there are school age children the Department is to verify school enrollment and attendance at application and redetermination beginning with age 6. Verify school enrollment and attendance at application, redetermination and at each birthday beginning with age 16. BEM 245.

A dependent child age 6 through 15 must attend school full-time. If a dependent child age 6 through 15 is not attending school full-time, the entire FIP group is not eligible to receive FIP. A dependent child age 16 or 17 who is not attending high school fulltime is disqualified from the FIP group. School means a public school, nonpublic school registered with the MDE, or home school. Schools determine: the level of enrollment (such as full-time, half-time, or part-time); attendance compliance; and suspensions (such as reasons for/duration). BEM 245

In this case, the school completed two Verification of Student Information forms, one for each of the Claimant's daughters. One daughter is 15 years old, date of birth July 6, 1998, and one daughter is 16 years old, date of birth April 8, 1997. The school documented that both of the Claimant's daughters are enrolled full time but neither is attending regularly. Both Verification of Student Information forms are marked "attending sometimes." (Exhibit A, pages 8-13) Accordingly, the Department closed the Claimant's FIP case based on not meeting student attendance requirements.

The Claimant's mother provided explanations and supporting documentation for most of the school absences for her daughters. (Exhibits 1 and 2)

The Claimant explained that the school had not yet completed the Individualized Education Program (IEP) for the 16 year old daughter when the Verification of Student Information form was completed. Accordingly, at that time the school was not aware of the extent of the behavioral issues. A lot of this daughter's absences relate to behavioral issues and emotional impairments. Included in the supporting documentation for this daughter, was a December 2, 2013 letter from the Intermediate School District was submitted verifying the school attendance. (Exhibit 1, page 1)

The Claimant also noted that the 15 year old has had multiple illnesses, including dental abscess, tonsillitis and mono. (See also Exhibit 2) However, the Claimant's mother acknowledged that two of the absences noted on the Verification of Student Information were from this daughter skipping school and a suspension. The Claimant's mother does not dispute that these absences were unexcused.

Under the BEM 245 policy, if the 16 year old is not attending school full time, she is disqualified from the FIP group. However, if the 15 year old is not attending school full time, the entire FIP group is not eligible to receive FIP. The BEM 245 policy is also clear that the school determines the level of enrollment and attendance compliance. Based on the verification the school provided for the October 2013, Redetermination, neither daughter was attending regularly. Even if the school has changed their determination regarding the 16 year old daughter's attendance, the 15 year old daughter's not attending regularly, as determined by the school, still results in the entire FIP group being ineligible to receive FIP. While illnesses the 15 year old daughter has were documented in the information the Claimant submitted, it was uncontested that two of this daughter's absences at the time of the October 2013 Redetermination were unexcused and due to skipping and a suspension. The evidence does not establish that the school determined the Claimant's 15 year old daughter was attending regularly. Accordingly, the FIP closure must be upheld.

The Claimant may wish to re-apply for FIP if her daughters are now attending school regularly. Pursuant to BEM 245, if the Claimant re-applies for FIP, the mandatory 21 consecutive calendar day attendance must be verified before FIP eligibility can be approved.

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 closed the Claimant's FIP case for not meeting student enrollment/attendance requirements.

### **DECISION AND ORDER**

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

/s/  
Colleen Lack  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: January 3, 2014

Date Mailed: January 3, 2014

**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:

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

CL/hj

cc:

