

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-2548, 2013-48692
Issue No(s): 1007, 2000, 3000
Case No.: [REDACTED]
Hearing Date: December 10, 2013
County: Ingham 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 10, 2013, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Manager, and [REDACTED], Family Independence Specialist.

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 May 2013.
2. Verification of school enrollment was requested and some information was provided by the Claimant.
3. The Department determined that the submitted information regarding home schooling curriculum was inadequate to establish appropriate full-time school enrollment.
4. On May 14, 2013, a Notice of Case Action was issued to the Claimant.
5. On May 22, 2013, the Claimant filed a Request for Hearing contesting the Department's action regarding FIP.¹

¹ This was the original appeal of the FIP closure. The first hearing date was July 23, 2013, and while the Claimant was running late, she did appear at the local Department office that date for the telephone hearing. The Claimant's

6. On August 24, 2013, the Claimant submitted a change report that her 17 year old daughter and that daughter's newborn child were no longer in the home as of August 23, 2013.
7. On September 6, 2013, an automatic update placed the FIP case in non-compliance status due to non-compliance with child support requirements regarding the newborn of the 17 year old daughter.
8. On September 13, 2013, the Claimant filed another Request for Hearing contesting the Department's action(s) regarding FIP².
9. On October 3, 2013, the change report was processed, the 17 year old daughter and her child were removed from the group, but the FIP case could not be reinstated due to the inadequate homeschooling curriculum for two remaining school age children.

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. 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. For FIP, school means a public school, nonpublic school registered with the MDE, or home school. BEM 245

request that the original Order of Dismissal be vacated was granted in the August 9, 2013 Order Vacating the Dismissal and Order to Schedule Matter for Hearing. The second hearing date was scheduled for August 29, 2013. On August 30, 2013, an Order of Dismissal was issued based on the Claimant's failure to appear for the second scheduled hearing. On December 12, 2013, an Order Vacating Dismissal was issued based on good cause noting that the Claimant had properly changed her address as of June 1, 2013, prior to the mailing of the Notice of Hearing for the August 29, 2013 hearing date, but the Department had failed to advise the Michigan Administrative Hearing System of the address change.

² On the September 13, 2013 request for hearing, the Claimant also marked that she was contesting Department actions regarding Medicaid and Food Assistance Program (FAP) cases. During the December 10, 2013, hearing proceedings, the Claimant confirmed that there are no remaining contested issues regarding Medicaid or FAP and withdrew these portions of her appeal on the record. Accordingly, the Medicaid and FAP portions of the appeal are DISMISSED.

Regarding home schooling, parents and legal guardians must direct and oversee the home schooling of their dependent child in an organized educational program. The parent or legal guardian is responsible for assigning homework, giving tests and grading tests. If home schooling continues through grade 12, the parent or legal guardian issues a high school diploma to the graduate. The organized educational program must include the subject areas of reading, spelling, mathematics, science, history, civics, literature, writing, and English grammar. Home school families may purchase the textbooks and instructional material of their choice. Parents or legal guardians are encouraged to maintain student records of progress throughout the year. There are no required tests for a home school student, but the parent or legal guardian is responsible for administering tests based upon the curriculum they use. The annual registration of a home school with the MDE is voluntary. BEM 245.

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. For home schooling, verification of the organized educational program used, curriculum agenda, instruction materials or student records may be used. BEM 245.

Verification is usually required upon application or redetermination and for a reported change affecting eligibility or benefit level. Verifications are considered timely if received by the date they are due. The Department must allow a client 10 calendar days (or other time limit specified in policy) to provide the requested verification. The Department worker must tell the client what verification is required, how to obtain it, and the due date. BAM 130.

In the present case, the remaining contested issue for the FIP case is the determination that the curriculum for the children being home schooled was inadequate to meet student enrollment/attendance requirements. At the time of the May 14, 2013, a Notice of Case Action, two of the three home schooled children were age 15 or younger. (Exhibit C, pages 11- 14) Accordingly, under the BEM 245 policy, if the school enrollment/attendance requirements are not met for these children the whole FIP group is not eligible to receive FIP.

The April 15, 2013 Redetermination form indicated that proof would need to be provided of school attendance. (Exhibit C, page 2) The Family Independence Manager also testified that on April 8, 2013 in addition to the Verification of Student Information forms, a Verification Checklist was issued listing a due date of April 18, 2013. The Family Independence Manager further testified that Verification Checklist listed acceptable proofs: the SM-4325, Nonpublic School Membership Report, home school curriculum, or the DHS-3380 Verification of Student Information. The Claimant submitted Verification of Student Information forms completed by the school for two children and Verification of Student Information forms completed by herself for the three homeschooled children. On the Verification of Student Information forms for the home schooled children, a handwritten listing of curriculum was provided, specifically: math, reading, science, social studies, English, and constitution of US and Michigan. (Exhibit

C, pages 9-14) The Department asserted that during the May 7, 2013 interview for the Redetermination, the need for the home school curriculum was discussed and the Claimant told the Family Independence Specialist the information already submitted for the Redetermination was all she had.

The Family Independence Manager testified that on October 29, 2013, she received an email policy clarification which confirmed that the home school registration with MDE is voluntary, and if not using MDE the parent needs to provide verification of the curriculum used. The email indicated the parent should have something to verify what is being used to home school the child and a simple handwritten statement is not enough. Examples of what could be provided included text books, agenda, tests, or for an online course the registration could be used.

The Claimant testified that she spoke with the Family Independence Specialist when the verification was requested and asked about what was needed. The Claimant stated that the Family Independence Specialist only told her that the subjects being taught were needed. The Claimant noted that she reported the subjects being taught and had further understood that if anything else was needed the Family Independence Specialist would call her. Once she received the Notice of Case Action, the Claimant tried many times to call and find out what more the Department needed. The Claimant noted that the MDA registration was voluntary and that she had reported the curriculum. The Claimant explained that home schooling was forced for these children, so she used what she had on hand and online materials. The Claimant had materials from previously home schooling another child through the fifth grade. The Claimant asserted that she still has all these things, but was never told the Department needed copies of them for the May 2013 Redetermination. The Claimant further noted that under Michigan Law, the only requirement is to teach certain subjects.

The Family Independence Manager credibly testified that the Verification Checklist listed three acceptable types of proof for the verification of student information. It was uncontested that for the first listed type of proof, MDE registration is voluntary. The second listed type of proof was home school curriculum. However, the Claimant provided the third listed type of proof, the Verification of Student Information form, for all the school age children. The Claimant completed the Verification of Student Information form herself for the three home schooled children. However, the front page of this form states "This form must be completed by the school." (Exhibit C, pages 11-14) Accordingly, it does not appear this form was the most appropriate type of proof for the home schooled children because there was no school to complete the form. The remaining requested verification type, the home school curriculum, was more appropriate verification for the home school children since there was no MDA registration. However, for the home schooled children, the Claimant provided a list of the subjects being taught in response to a field on the Verification of Student Information form for curriculum. (Exhibit C, pages 9-14)

The Claimant clearly testified that she understands while no specific materials are required for home schooling, there are subjects that are required to be included in the curriculum. However, the Claimant's list of subjects on the Verification of Student Information forms did not include all of the separate subjects listed in the BEM 245 policy as subject areas the organized educational program must include. (Exhibit C,

pages 9-14) Based on the information available at that time, the Department appropriately determined that the curriculum for the children being home schooled was inadequate to meet student enrollment/attendance requirements.

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 2, 2014

Date Mailed: January 2, 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:

201425448/CL

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

CL/hj

cc:

