

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

IN THE MATTER OF:



Reg. No.: 2013-53926
Issue No.: 1001
Case No.: [REDACTED]
Hearing Date: August 15, 2013
County: Wayne DHS (49)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 August 15, 2013, from Detroit, Michigan. Participants included the above-named claimant. Participants on behalf of Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly determined Claimant's Family Independence Program (FIP) benefit eligibility based on Claimant's children's school attendance.

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 FIP benefit recipient.
2. Claimant is the father of a 16 year old child who, per the school (see Exhibit 3), has a 27% attendance rate and is considered a part-time student.
3. Claimant is the father of an 18 year old student who was expected to graduate in 6/2013, but was given until 8/2013 to complete classes.
4. On 6/24/13, DHS initiated termination of Claimant's FIP benefit eligibility, effective 8/2013, due to a failure by Claimant to have children eligible for FIP benefits.
5. On 7/1/13, Claimant requested a hearing to dispute the FIP benefit termination.

6. DHS continued Claimant's FIP benefit eligibility due to Claimant's hearing request.

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, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and Mich Admin Code, R 400.3101 through R 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing to dispute a termination of FIP benefit eligibility to be effective 8/2013. It was not disputed that the basis for termination was the failure by Claimant to have any children meeting the school attendance requirement for FIP benefits.

A dependent child age 16 or 17 who is not attending high school full-time is disqualified from the FIP group in Bridges. BEM 245 (7/2013), p. 1. Schools determine the level of enrollment. *Id.* pp. 4-5.

A letter of Claimant's 16-year-old son's school attendance verified that the son was a part-time student due to a 27% attendance rate. It is found that Claimant's 16-year-old son was a part-time student.

Claimant testified that he and his son are going through therapy due to a history of unspecified incidents. Claimant's excuse is potentially sympathetic, but DHS policy does not factor good cause for a failure of a child to attend school. It is found that DHS properly disqualified the 16-year-old from FIP benefit eligibility due to his part-time student status.

There was also a dispute concerning an 18-year-old son of Claimant's. DHS terminated the FIP benefit eligibility for the 18 year old based upon an expected graduation month of 6/2013. As it happened, Claimant's 18-year-old son failed classes, resulting in not graduating. Claimant reported to DHS that his son was given through 8/2013 to complete the needed classes; DHS conceded not factoring Claimant's reporting. It was not verified that the 18-year-old was attending classes. Thus, DHS should evaluate Claimant for ongoing FIP eligibility based on his 18-year-old son being potentially eligible as a FIP group member.

It was not disputed that Claimant's 18-year-old son only had through 8/2013 to complete his high school requirements. Accordingly, Claimant is entitled to a FIP benefit determination for 8/2013 only.


DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly terminated Claimant's FIP benefit eligibility for a 16-year-old son who was not a full-time student. The actions taken by DHS are PARTIALLY AFFIRMED.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly terminated Claimant's FIP eligibility, for 8/2013 only, by failing to factor potential eligibility of Claimant's 18-year-old son. It is ordered that DHS:

- (1) redetermine Claimant's FIP eligibility for 8/2013, subject to the finding that Claimant reported that his 18-year-old son is expected to graduate in 8/2013; and
- (2) initiate supplement of benefits, if any, improperly not issued.

The actions taken by DHS are PARTIALLY REVERSED.


Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 8/20/2013

Date Mailed: 8/20/2013

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

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

CG/hw

cc:

