

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-8083
Issue No(s): 1001
Case No.: [REDACTED]
Hearing Date: January 16, 2014
County: Washtenaw

ADMINISTRATIVE LAW JUDGE: MICHAEL S. NEWELL

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 January 16, 2014 from Lansing, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED] Family Independence Manager.

ISSUE

Did the Department properly close the FIP benefits at issue?

FINDINGS OF FACT

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

1. On October 10, 2013, Claimant filed a request for cash assistance.
2. On October 11, 2013, the Department requested verification of enrollment regarding Claimant's children, including Claimant's daughter [REDACTED] (DOB [REDACTED]).
3. The verification was due by October 15, 2013.
4. [REDACTED] is not part of the FIP group because she receives SSI and is not eligible for FIP.
5. Claimant is not part of the FIP group.
6. On October 15, 2013, the Department contacted [REDACTED] school to verify enrollment because of missing information.

7. The school informed the Department that between the start of the school year and October 15, 2013, [REDACTED] attended only 4 days of school.
8. Claimant verified during the hearing that [REDACTED] had attended only 4 days of school during that period and that [REDACTED] school began on or around September 6, 2013.
9. Client testified that her daughter attended school half time and was considered a part-time student by the school and would miss school due to health reasons and do certain work at home.
10. On October 16, 2013, the Department issued a Notice of Case Action canceling FIP benefits effective November 1, 2013.
11. Claimant requested hearing on October 18, 2013.

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.

BEM 245, p1 provides in pertinent part as follows:

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.

Additionally, the Department's reading an application of BEM 245 in this case is understandable. However, the Department's application is incorrect. Although the cited policy references "defendant child," and [REDACTED] is certainly Claimant's dependent child, she is not part of the FIP group. Thus, BEM 245 does not require disqualification of "the entire FIP group" because [REDACTED] is not part of "the FIP group." Put another way, use of the dependent article "the" with respect to the FIP group indicates that policy contemplates disqualification of a particular FIP group. Here, the Department has read the policy to mean that if a dependent child, who is not part of the FIP group, is not attending school full time, some other FIP group is disqualified. "The . . . FIP group" referenced in BEM 245 is not [REDACTED] FIP group, so the FIP group at issue is not the FIP group referenced in BEM 245. It would be if [REDACTED] were a member. The Department is essentially reading the policy to mean that if a dependent child is not

attending school, a FIP group made up of children of the parent of the truant child is thus ineligible. The policy does not say this.

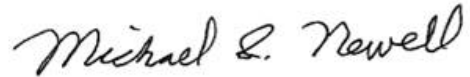
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it cancelled FIP benefits effective November 1, 2013..

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Restore benefits from the closure date and redetermine eligibility.



Michael S. Newell
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 7, 2014

Date Mailed: February 7, 2014

NOTICE OF AP PEAL: 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

MSN/las

cc:

