

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201415537
Issue No(s): 1002, 1007
Case No.: [REDACTED]
Hearing Date: June 10, 2014
County: Washtenaw County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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, an in person hearing was held on June 10, 2014, from Ypsilanti, Michigan. Participants on behalf of Claimant included Claimant. Claimant's Attorney [REDACTED] of [REDACTED] also appeared for the Claimant. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's FIP application because her daughter was not enrolled in school?

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 August 22, 2013, October 2, 2013, and October 29, 2013, Claimant applied for FIP benefits.
2. Claimant's application was denied on October 30, 2013, because her daughter was not enrolled in school.
3. Claimant requested hearing on November 27, 2013.
4. Claimant's daughter, [REDACTED] has serious health problems that caused her to be unable to attend school in the fall of 2013. Due to her missing many days due to her illnesses and hospitalizations, Claimant's daughter was dropped from [REDACTED] on September 3, 2013.

5. Claimant's daughter [REDACTED] was not enrolled in school at the time of application and continues to be not enrolled today.

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, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101 to .3131.

SCHOOL ATTENDANCE

Dependent Children

FIP Only

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.

A dependent child must be enrolled in and attending a school as defined in this item. Courses which are not administered by a school do **not** meet the requirement of school attendance.

Correspondence or web-based courses administered by a school or used as part of a home school curriculum are acceptable.

Consider 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

Additionally, the Department asserted at hearing that Claimant's child [REDACTED] was not enrolled in school for the 2013-14 school year. A printout from [REDACTED] school appears to notate her status as "Transferred Out" which suggests she was not enrolled. The Department relied on BEM 245 to deny Claimant's FIP application because the child was not enrolled. The Department asserted that enrollment is required and mandatory and that the attendance exception for periods of extended illness is predicated on enrollment.

Claimant asserted at hearing that her child was seriously ill and in and out of hospitals for the majority of the 2013-14 school year. Claimant provided voluminous medical records that document her child's serious health problems and numerous hospitalizations during the period in question. Claimant further testified that she has

been making efforts to have [REDACTED] enrolled in school including contact with the homeless liason with the Ypsilanti public school system. Claimant argued that the portion of BEM 245 that references periods of extended illness should apply to [REDACTED] and that she should be considered as meeting the school attendance requirement despite not being enrolled in school.

This Administration Law Judge finds that Department policy explicitly requires school enrollment for eligibility. BEM 245 The exception for "periods of extended illness" potentially covers the attendance requirement but not the enrollment requirement. This Administrative Law Judge is sympathetic to the extenuating circumstances caused by Claimant's child's health problems. Claimant's testimony regarding her efforts to have her child enrolled in school was credible. However, pursuant to Department policy enrollment is required and the Department's denial for not being enrolled was proper and correct.

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 denied Claimant's FIP application because her daughter was not enrolled in school.

DECISION AND ORDER

Accordingly, the Department's decision is

AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 20, 2014

Date Mailed: June 20, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

ATM/hj

cc:

