

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-23331
Issue No.: 1002, 3001
Case No.: [REDACTED]
Hearing Date: March 19, 2014
County: Wayne (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 March 19, 2014, from Taylor, Michigan. Participants included the above-named Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Manager, and [REDACTED], Specialist.

ISSUES

The first issue is whether DHS properly determined Claimant's Food Assistance Program (FAP) eligibility based on a group size of three persons.

The second issue is whether DHS properly denied Claimant's application for Family Independence Program (FIP) benefits due to a Claimant failure to verify school attendance for her son.

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 [REDACTED], Claimant submitted an Assistance Application to DHS requesting FIP benefits.

2. Claimant's application listed that she lived with three minor children, each child attending school.
3. On an unspecified date no later than [REDACTED] Claimant's 17 year-old child left her household.
4. On [REDACTED], DHS mailed Claimant a Verification Checklist (VCL) (Exhibits 1-2) requesting proof of school attendance for Claimant's minor children.
5. The VCL due date was [REDACTED].
6. On [REDACTED] DHS mailed Claimant a second VCL (Exhibits 3-4) requesting proof of school attendance for Claimant's three children, giving Claimant until [REDACTED] to submit verification.
7. On [REDACTED] DHS mailed Claimant a Notice of Case Action (Exhibits 7-8) informing Claimant of a denial of FIP benefits based on a Claimant failure to verify school attendance for one of her children.
8. On [REDACTED], Claimant requested a hearing to dispute the denial of FIP benefits.

CONCLUSIONS OF LAW

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 MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Claimant testified that she requested a hearing request to dispute State Emergency Relief (SER) and Food Assistance Program (FAP) determinations. During the hearing, it was concluded that Claimant's handwritten Request for Hearing only disputed a FIP application denial. After the hearing, a recheck of the hearing file revealed a second Request for Hearing noting a dispute of cash, Medicaid and FAP denials and closures. The second Notice of Hearing did not alter the initial conclusion that Claimant failed to cite a SER dispute. Claimant did not verbally state a dispute concerning Medicaid; thus, it is presumed that Claimant has no dispute despite her written hearing request. The administrative hearing may have improperly failed to address Claimant's FAP benefit dispute.

Claimant testified that she lived with her three minor children and that DHS improperly reduced her FAP benefits. Claimant's testimony implied that DHS wrongly excluded a minor child from a benefit determination.

Claimant's testimony was erratic, but ultimately, Claimant conceded that her 17-year-old son left her household shortly after the son stopped participating in "cyber school" in 5/2013. Claimant's testimony suggested that her 17 year old son left her household no later than 8/2013. Based on the presented evidence, Claimant appears to dispute a DHS determination from earlier than 8/2013.

The client or authorized hearing representative has 90 calendar days from the date of the written notice of case action to request a hearing. BAM 600 (7/2013), p. 5. The request must be received anywhere in DHS within the 90 days. *Id.*

Claimant's multiple hearing request verified a submission date of [REDACTED]. Thus, it can be concluded that Claimant is barred from disputing any FAP benefit determinations from 9/2013 and earlier. Accordingly, Claimant's hearing request was untimely to dispute FAP eligibility. The analysis will continue to address Claimant's FIP benefit dispute.

DHS presented a Notice of Case Action (Exhibits 7-8) verifying that Claimant's FIP application was denied due to a Claimant failure to verify school enrollment for her 17-year-old son. It was not disputed that DHS mailed Claimant a VCL requesting school attendance verification of her 17 year old.

DHS is to verify school enrollment and attendance at application and redetermination beginning with age 7. BEM 245 (7/2013), p. 8. A dependent child age 16 or 17 who is not attending high school full-time is disqualified from the FIP group in Bridges. *Id.*, p 1.

The above-cited policy confirms that DHS must verify school attendance of 17 year old children of FIP applicants. The above-cited policy also verified that an alleged client failure to verify school enrollment should not result in an application denial. The proper remedy is to disqualify the student rather than to deny the application. It is found that DHS erred in denying Claimant's FIP application. Despite this finding, the analysis must also address whether DHS also failed in their procedural obligations.

DHS is to allow the client 10 calendar days (or other time limit specified in policy) to provide the requested verification. BAM 130 (7/2013), p. 6. DHS is to send a negative action notice when:

- the client indicates refusal to provide a verification; or
- the time period given has elapsed and the client has not made a reasonable effort to provide it.

Id.

It was not disputed that DHS extended Claimant's VCL due date. In many circumstances, an applicant's failure to submit verification by the 18th day following a

VCL mailing would be found to be unreasonable efforts. Ambiguities and inconsistencies in Claimant's testimony did not bolster Claimant's excuses for failing to timely submit verification. Despite these problems, Claimant established that many circumstances should be evaluated in determining whether she made reasonable efforts in verifying her son's school attendance.

It was not disputed that Claimant applied for FIP benefits on [REDACTED]. It was not disputed that DHS requested proof of Claimant's son's school attendance on [REDACTED], over ten months after Claimant requested FIP benefits. DHS conceded that the delay was their fault. Typically, DHS has 45 days to process a FIP application request (see BAM 115). DHS exceeded the standard of promptness by over 200 days. The DHS delay in requesting verification created multiple hardships for Claimant. If Claimant failed to make reasonable efforts to verify her son's school attendance, Claimant could not quickly reapply for FIP benefits. Though the DHS delay did not directly impact Claimant's ability to verify school attendance, it appropriately raises the level of scrutiny of DHS' actions.

The 8-day extension given to Claimant is not as generous as it would seem. DHS extended a VCL deadline from 1 [REDACTED] to [REDACTED]. The extra days included two holidays and two weekend days. The deadline was the day after Christmas. This evidence tended to support that DHS did not provide enough additional time to Claimant.

It was also not disputed that DHS requested school attendance for two of Claimant's children in 11/2013. DHS did not adequately explain why a request for school attendance for Claimant's third child required a second mailing.

DHS also conceded that Claimant had discussions concerning extending the verification due date with a specialist and a manager. Based on presented evidence, it is plausible that the manager who spoke with Claimant provided Claimant with a different expectation than Claimant's DHS specialist.

Based on the presented evidence, it is found that Claimant made reasonable efforts to provide verification of her son's school attendance. Accordingly, the DHS denial of FIP benefits was improper.

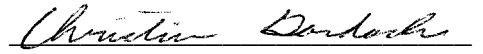
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant failed to timely dispute FIP benefit issuances from 9/2013 and earlier. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's FIP application. It is ordered that DHS perform the following actions:

- (1) reinstate Claimant's FIP application dated [REDACTED];
- (2) process Claimant's FIP application subject to the finding that Claimant made reasonable efforts in verifying her son's school attendance; and
- (3) initiate supplement of any benefits improperly not issued.

The actions taken by DHS are **REVERSED**.


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

Date Signed: 3/31/2014

Date Mailed: 3/31/2014

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

CG/hw

cc:

