

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

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-012851
Issue No.: 1008
Agency Case No.: [REDACTED]
Hearing Date: August 26, 2015
County: St. Joseph

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

HEARING DECISION

Following the 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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on August 26, 2015, from Lansing, Michigan. Participants on behalf of the Claimant included the Claimant, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Eligibility Specialist, [REDACTED], and Assistance Payments Supervisor, [REDACTED].

ISSUE

Did the Department properly deny the Claimant's application for Family Independence Program (FIP) benefits for herself?

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 is grandmother, guardian, and an ineligible grantee of her four-year-old grandson.
2. On May 13, 2015, the Claimant submitted an Assistance Application for FIP benefits for her grandson and herself.
3. On June 23, 2015, the Department sent the Claimant a DHS-1605, Notice of Case Action, informing the Claimant that FIP benefits had been approved for her grandson in the amount of \$ [REDACTED] a month.

4. On July 6, 2015, the Department received the Claimant's written hearing request protesting the denial of her application for FIP benefits for herself.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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 Department of Human Services) 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-.3131.

In this case, the facts are not contested. The Claimant testified that she feels it is unfair that she is unable to receive FIP benefits simply because she is not the parent of the grandson to whom she is caretaker. The Department testified that the Claimant cannot receive FIP because she is an ineligible grantee.

Bridges Eligibility Manual (BEM) 230A (2015) p. 1, provides that work eligible individuals (WEI) in the FIP group are required to participate in employment related activities. Non-WEI's are not referred to participate in employment related activities. Ineligible caretakers are not recipients of FIP, though the family is receiving FIP benefits for the children. Ineligible caretakers are not WEI's.

BEM 210 (2014) p. 6, provides that a person/relative, including a grandparent, great-grandparents or guardian, may be a caretaker only when the dependent child has no legal parent or stepparent in the home. BEM 210 p. 9, provides that a needy caretaker other than a parent or stepparent may request cash assistance and be included in the FIP certified group.

After consulting the policy, this Administrative Law Judge does not understand why the Claimant is an ineligible grantee. The Claimant is grandmother and guardian to the child in question. No evidence was given as to whether or not the Claimant is "needy" and the policy did not define the term.

As such, 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 denied the Claimant's application for FIP benefits for herself.

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. Redetermine whether or the Claimant's status as an ineligible grantee is required, and
2. Redetermine the Claimant's eligibility for FIP back to May 13, 2015, and
3. Issue the Claimant any supplement she may thereafter be due, and
4. Issue the Claimant a detailed notice of the Department's determinations.



Susanne E. Harris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **8/31/2015**

SEH/jaf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

