

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-010924
Issue No.: 1002
Case No.: [REDACTED]
Hearing Date: July 15, 2015
County: Kent-District 1

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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, telephone hearing was held on July 15, 2015, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department included [REDACTED], Family Independence Manager.

ISSUE

Did the Department of Health and Human Services (Department) properly close the Claimant's Family Independence Program (FIP) benefits?

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 was an ongoing Family Independence Program (FIP) recipient.
2. On May 21, 2015, the Department sent the Claimant a Quick Note (DHS-100) informing her that the report cards are not acceptable proof of being a fulltime student and regular attending.
3. On June 5, 2015, the Claimant reported to the Department that she had been home schooling her children since March 17, 2015.
4. On June 5, 2015, the Department notified the Claimant that it would close her Family Independence Program (FIP) benefits effective July 1, 2015, because her children are not compliant with school attendance requirements.
5. On June 17, 2005, the Department received the Claimant's request for a hearing.

6. A notice of hearing had not yet been generated on July 15, 2015, but since the Claimant was present at the Department's office for another hearing, she was willing to waive formal notice so that the hearing could be conducted without further delay.

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.

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. Department of Human Services Bridges Eligibility Manual (BEM) 245 (July 1, 2015), p 2.

The Claimant was a FIP recipient and her minor children are required to attend school for the group to maintain its eligibility for benefits. Due to Department error, the Claimant's FIP benefits were opened without the verification material required by BEM 245. On May 21, 2015, the Department sent the Claimant a Quick Note (DHS-100) informing her that the report cards she had previously submitted were not acceptable proof of being a fulltime student and regular attending. On June 5, 2015, the Claimant reported to the Department that she had been homeschooling her children since March 17, 2015. On June 5, 2015, the Department notified the Claimant that it would close her FIP benefits effective July 1, 2015, because her children are not compliant with school attendance requirements.

The Claimant testified that she was willing to provide the Department with anything that was required to verify that her children had been home schooled since March 17, 2015.

The evidence presented on the record does not support a finding that the Department closed the Claimant's FIP benefits for failure to provide the Department with information necessary to determine her eligibility to receive benefits. The evidence supports a finding that the Department closed FIP benefits because her children are not compliant with school attendance requirements.

However, the Department failed to offer sufficient evidence that the Children have not been attending school regularly. The fact that the Department failed to obtain sufficient verification of attendance from the Claimant is not evidence of a lack of compliance with school attendance requirements.


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 did not act in accordance with Department policy when it closed the Claimant's Family Independence Program (FIP) benefits.

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. Provide the Claimant with a ten-day period to provide verification of her children's attendance in school as required by BEM 245.
2. Initiate a determination of the Claimant's eligibility for the Family Independence Program (FIP) as of July 1, 2105.
3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **7/20/2015**

Date Mailed: **7/20/2015**

KS/las

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 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 48909-8139

cc:

