

**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.: 15-019678
Issue No.: 1002
Agency Case No.: [REDACTED]
Hearing Date: January 20, 2016
County: Genesee (06)

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

Following Petitioner'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 January 20, 2016, from Lansing, Michigan. Petitioner personally appeared and provided testimony. [REDACTED] (Petitioner's friend) was present on behalf of Petitioner for moral support, but did not testify. [REDACTED] (Hearing Facilitator) represented the Department of Health and Human Services (Department).

ISSUE

Did the Department properly deny Petitioner's application for Family Independence Program (FIP) or "cash assistance" due to failure to meet the verification requirements?

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 6, 2015, Petitioner submitted a Filing Form (DHS-1171-F) along with an Assistance Application (DHS-1171) seeking FIP benefits for a minor child (Female, D.O.B. [REDACTED]) (hereafter "[REDACTED]"). [Exhibit 1, pp. 3-24].
2. Petitioner did not fully complete each section of the application. [Exh. 1, pp. 3-24].
3. At the time, Petitioner alleged that she was [REDACTED]'s great aunt and that she was related to [REDACTED]'s father.
4. Petitioner provided the Department with a March 10, 2015 letter from [REDACTED] who purportedly is [REDACTED]'s mother, which indicated that she gave Petitioner "temporary full custody" of [REDACTED] [Exh. 1, p. 27].

5. Petitioner also provided the Department with [REDACTED]'s birth certificate from the State of Illinois, which did not identify [REDACTED]'s father on the document. [Exh. 1, p. 28].
6. The Department was unable to objectively verify whether Petitioner and [REDACTED] were related. [Exh. 1, pp. 3-24, 25].
7. [REDACTED]'s parents were not married and paternity had not been established. [Exh. 1, p. 25].
8. On August 7, 2015, the Department mailed Petitioner a Verification Checklist (DHS-3503) requesting paternity acknowledgment for [REDACTED] on or before August 17, 2015. [Exh. 1, pp. 29-30].
9. Petitioner failed to provide the Department with acceptable verification to show that she was related to [REDACTED]'s father or that she had proper paternity documentation by the August 17, 2015 due date.
10. On August 20, 2015, the Department mailed Petitioner a Notice of Case Action (DHS-1605) which denied the application for FIP benefits effective September 1, 2015 due to failure to provide the necessary requirements for FIP eligibility and failure to provide proof of paternity for the child's father. [Exh. 1, pp. 31-35].
11. Petitioner requested a hearing to dispute the Department's decision on October 16, 2015.

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.

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group/program group and the FIP certified group. To be eligible for FIP, the group must include a dependent child who lives with a legal parent, stepparent or other qualifying caretaker. BEM 210 (7-1-2015), p. 1.

A caretaker is a legal parent or stepparent living in the home, or when no legal parent or stepparent lives in the home, another adult who acts as a parent to a dependent child by providing physical care and supervision. BEM 210, p. 1.

A person other than a legal parent or stepparent may be a caretaker only when the dependent child has no legal parent or stepparent in the home. A caretaker in the child's home, other than a parent or stepparent must be one of the following:

1. A relative who is at least age 18 and legally related to the child by blood, marriage or adoption, as any of the following:
 - Grandparent (including great or great-great).
 - Aunt or uncle (including great or great-great).
 - Sibling.
 - Stepsibling.
 - Nephew or niece.
 - First cousin or first cousin once removed.
 - The spouse of any of the above, even after the marriage is ended by death or divorce.
 - The parent of the child's putative (alleged) father.
2. The child's legal guardian(s).
3. An adult(s) who is at least age 21 and whose petition for legal guardianship of the child is pending.
4. An adult, having none of the qualifying relationships above, with whom MDHHS children's services has placed a child, subsequent to a court order identifying MDHHS as responsible for the child's care and supervision. This relationship is known as unrelated caregiver, formerly fictive kin. Occasionally, a child is included in a FIP EDG when there is not a qualifying relationship to the caretaker due to mandatory EDG member policy. BEM 210, pp. 6-7.

Verification must establish the relationship of each dependent child to the child's legal parent, step-parent or other qualifying caretaker. BEM 210, p. 14. Verification sources include:

- Birth certificates.
- Adoption records.
- Marriage license/certificate.
- School records.

- Separation records.
- Divorce records.
- Hospital birth records.
- Affidavit of Parentage.
- Child support records.
- Court orders.
- Baptismal records.
- Immigration records.
- Any legal document that traces the child's relationship to the parent, stepparent or other qualifying caretaker.
- Other government or local agency records, newspaper records, or local histories that specify the relationship.
- Consecutively numbered I-94 cards do not prove relationship of a caregiver to a child.

See BEM 210, p. 15.

The Department must verify that a court has ordered MDHHS responsible for the care and supervision of a child(ren), and that the child has been placed with the unrelated caregiver by MDHHS children's services staff with one of the following:

- A DHS-498, Caregiver Assistance Application Cover Letter, completed by MDHHS children's services staff.
- A copy of court documents.
- Contact with or statement from the MDHHS children's services staff that provides the same information. See BEM 210, p. 17.

Here, the Department contends that Petitioner failed to provide sufficient verification that she was ■■■'s caretaker as defined by BEM 210 for purposes of FIP eligibility. Petitioner, on the other hand, contends that she is ■■■'s great aunt and that she has provided a letter from ■■■'s mother as verification.

Testimony and other evidence must be weighed and considered according to its reasonableness. *Gardiner v Courtright*, 165 Mich 54, 62; 130 NW 322 (1911); *Dep't of Community Health v Risch*, 274 Mich App 365, 372; 733 NW2d 403 (2007). The weight

and credibility of this evidence is generally for the fact-finder to determine. *Dep't of Community Health*, 274 Mich App at 372; *People v Terry*, 224 Mich App 447, 452; 569 NW2d 641 (1997). Moreover, it is for the fact-finder to gauge the demeanor and veracity of the witnesses who appear before him, as best he is able. See, e.g., *Caldwell v Fox*, 394 Mich 401, 407; 231 NW2d 46 (1975); *Zeeland Farm Services, Inc v JBL Enterprises, Inc*, 219 Mich App 190, 195; 555 NW2d 733 (1996).

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. Policy clearly provides that verification must establish the relationship of the qualifying caretaker. BEM 210, p. 14. This policy also lists several acceptable verification sources. A letter from a child's biological parent is not within the list of enumerated verification sources under BEM 210. Although the Department representative testified that Petitioner has since reapplied for FIP and, subsequently, provided proper verification from a court to show that she has full guardianship over [REDACTED]. However, there is no dispute that Petitioner failed to provide acceptable verification to the Department, before the August 17, 2015 due date, to show her proper relationship to [REDACTED] for purposes of FIP eligibility. The material, competent and substantial evidence on the whole record shows that Petitioner failed to meet the verification requirement set forth by BEM 210.

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 Petitioner's August 6, 2015 FIP application.

DECISION AND ORDER

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



C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Health & Human Services

Date Mailed: 1/21/2016

CAP/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 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:

