



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: April 28, 2017  
MAHS Docket No.: 17-003593  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

### **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 April 1, 2017, from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Amber Gibson, Hearing Facilitator.

### **ISSUE**

Did the Department properly deny the Petitioner's Family Independence Program (FIP) cash assistance application?

### **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 Petitioner applied for FIP on [REDACTED], 2016, for only one of her minor children, [REDACTED] ([REDACTED]). The Petitioner was this child's Guardian. None of the other children in the home were active for FIP at the time of the application, and Petitioner did not apply for FIP on their behalf. [Exhibit A, p. 6.]
2. Petitioner has other minor children living with her who are also of school age.
3. On February 8, 2017, the Department sent a Verification Checklist (VCL) to the Petitioner requesting completion of School Attendance Verification of school

enrollment for two children, [REDACTED] and [REDACTED]. The verifications were due by February 21, 2017. [Exhibit B.]

4. The verification for [REDACTED] was returned by the due date, but the form did not answer the question to confirm regular school attendance (question 6). The form for [REDACTED] was returned after the verification due date on March 6, 2017, and after the Notice of Case Action denying the FIP application. [Exhibit C.]
5. The Verification of School Enrollment forms were not provided to the Petitioner until February 16, 2017; but the Department contended they were due on February 21, 2017, based upon the original VCL due date of February 21, 2017. [Exhibit B.]
6. On February 16, 2017, the Department sent a separate FIP Student Attendance Compliance Test Notice to the Petitioner advising her that the Department records indicate a child in the Petitioner's home failed to attend school full-time. The notice advised that the school had to verify that the children attended school full-time for the next 21 school days. The Department also sent with the Student Attendance Compliance Test Notice were DHS-3380 - Verification of Student Information forms for [REDACTED], [REDACTED], [REDACTED], and [REDACTED]. [Exhibit C.] There is no due date shown on this form, and it was provided after the Petitioner appeared for her FIP interview on February 16, 2017. [Exhibit C.]
7. All of the verifications were sent to comply with FIP eligibility policy, there was no evidence that any of the children in the home were not attending school.
8. Forms were returned by the Petitioner for [REDACTED], [REDACTED], [REDACTED] and [REDACTED]. The form returned for [REDACTED] did not include the second page, and the form for [REDACTED] did not indicate regular school attendance (question 6). The forms were submitted on February 21, 2017. The form for Morrell was returned after the verification due date on March 6, 2017. [Exhibit C and Exhibit D.]
9. On February 27, 2017, the Department issued a Notice of Case Action denying the Petitioner's FIP application due to school attendance forms not being received for Boyd and Morrell.
10. The Petitioner requested a timely hearing on March 6, 2017 protesting the denial of the application.

### **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 Department denied the Petitioner's application for FIP for [REDACTED] based upon Petitioner's Guardianship of the child, because verification of the mandatory FIP group member children's school verification forms were not completed. One of the school enrollments received was not complete and was missing the second page though timely received ([REDACTED]), the verification for [REDACTED], (child FIP was applied for) did not complete the box to demonstrate that this child was regularly attending school, and one verification of school enrollment was received on March 6, 2017, after the VCL due date of February 21, 2017, (Morrell). The Verification of Student Information forms were not provided with the VCL, but were provided on February 16, 2017. At the hearing, the Department contended that the forms were still due on February 21, 2017, even though the Petitioner was not given 10 days to complete the verifications.

The original VCL requested school attendance verification of [REDACTED] and [REDACTED] only with a due date of February 21, 2017. [Exhibit B.] The School Enrollment Forms, DHS-3380, **were not** provided with the VCL, but were provided on February 16, 2016, with a Notice for FIP Student Attendance Compliance Test, dated February 16, 2017. [Exhibit C.] The communication regarding what was required and when was unclear due to the fact that the Notice for FIP Student Attendance Compliance Test indicated that a 21-day compliance test was necessary.

The Department issued a Notice of Case Action on February 27, 2017, denying the FIP application effective January 16, 2017 due to failure to return school forms for Boyd and Morrell, two of the Petitioner's minor children. [Exhibit D.]

In this case, when initially the Department requested school enrollment forms be completed for two of the minor children in the home, the forms were not provided with the first VCL. The Department sent a DHS-5443, FIP Student Compliance Test, to Petitioner that a dependent child has been verified as not enrolled or not attending school full time. [Exhibit C.] In order for FIP benefits to continue, Department policy requires that the DHS-3380 Verification of Student Information must be returned in 31 days verifying full-time attendance when a compliance test is required. BEM 245, p. 8. This form was generated after an in-person interview held **after** the VCL was mailed to Petitioner. There was no evidence that the Department considered reinstatement of the FIP application after receiving the verifications.

Dependent children are expected to attend school full-time, and graduate from high school or a high school equivalency program, in order to enhance their potential to obtain future employment leading to self-sufficiency.

Dependent children ages 6 through 17 must attend school full-time. BEM 245 (January 1, 2017), p. 1.

For FIP eligibility, Dependent children ages 6 through 18 must be a full-time student and attending school.

### **HOURS OF ENROLLMENT AND ATTENDANCE FIP and FAP**

Schools determine:

- The level of enrollment (such as full-time, half-time, or part-time).
- Attendance compliance.
- Suspensions (such as reasons for/duration).

**Note:** Consider dependent children attending half-day kindergarten as attending full-time. BEM 245, p. 6

It is clear in this case that the Department was required to seek school enrollment verification; however, the process used by the Department to obtain the information was confusing and did not allow the Petitioner 10 days to respond after she received the Verification of Student Information forms. In addition, when the Department received a faxed form, missing the second page for one of the children, all provided by the same school, and the Department apparently made no effort to contact the Petitioner to let her know about the problem. As regards ██████████, the school neglected to complete the necessary box to inform the Department that he was regularly attending school; however, the Department could have contacted the school by collateral contact to clarify and confirm the information as the phone number was available on the form and was signed by the Principal. BAM 130 contains the procedures and requirements that the Department is required to follow when seeking verification:

Tell the client what verification is required, how to obtain it, and the due date;

A **collateral contact** is a direct contact with a person, organization or agency to verify information from the client. It might be necessary when documentation is not available or when available evidence needs clarification. BAM 130, (January 1, 2017), p. 2

Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery of a MDHHS representative are considered to be received the next business day.

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. BAM 130 (January 1, 2017), p. 7.

Based upon the evidence presented, it is determined that the Department did not allow Petitioner 10 days to complete the verification forms, which it contended were due on February 21, 2017; and its process was confusing; and clearly the client did not indicate a refusal to provide verification.

### **DECISION AND ORDER**

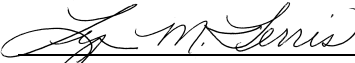
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied the Petitioner's FIP application for failure to verify school enrollment.

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. The Department shall re register the Petitioner's [REDACTED], 2016, FIP application and reprocess the application.
2. The Department shall issue a FIP supplement to Petitioner, for FIP benefits, if any, the Petitioner is otherwise entitled to receive in accordance with Department policy.
3. The Department shall provide the Petitioner written notice of its determination.

LMF/jaf



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**Lynn M. Ferris**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

**Petitioner**



**DHHS**

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