



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

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██████████, MI ██████████

Date Mailed: July 5, 2023
MOAHR Docket No.: 23-002932
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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; 42 CFR 438.400 to 438.424; 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 June 21, 2023, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Melissa Stanley Hearing Facilitator. Department Exhibit 1, pp. 1-27 was received and admitted.

ISSUE

Did the Department properly deny Petitioner's Family Independence Program (FIP) 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. On ██████ ██████ 2023, Petitioner applied for FIP.
2. On April 25, 2023, a Verification Checklist was sent to Petitioner along with a Verification of Student Information and PATH notices.
3. On April 28, 2023, the Verification of Student Information was submitted stating that Petitioner's child is "attending sometimes".
4. On May 9, 2023, Notice of Case Action was sent to Petitioner informing him that FIP was denied for failing to meet student requirements.
5. On May 12, 2023, Petitioner requested hearing disputing the denial of FIP benefits.

- Petitioner testified at hearing that his child is on summer break from school and intends to return to school after summer break.

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.

ATTENDANCE COMPLIANCE TEST

FIP Only

If verification is returned that a dependent child or minor parent **receiving** FIP is not attending school full-time, an attendance compliance test is required **before** taking appropriate action regarding the FIP group.

The attendance compliance test requires the dependent child or minor parent to attend **all** school days for 21 consecutive calendar days.

Initiating the Attendance Compliance Test

In order for a dependent child or minor parent to complete the attendance compliance test, do the following:

Generate the MDHHS-5443, FIP Student Attendance Compliance Test, and send to the FIP group. The MDHHS-5443 explains to the head of household that a dependent child or minor parent has been verified as not enrolled or not attending school full-time. In order for the FIP group and/or dependent child aged 16 or 17 to continue to receive FIP, the dependent child or minor parent must complete a 21-day

attendance compliance test. In order for FIP benefits to continue, the DHS-3380, Verification of Student Information, must be returned in 31 days verifying full-time attendance.

Generate the DHS-3380 and send to the FIP group with the 21 Day Compliance Test box checked. The DHS-3380 must be sent with the DHS-3503-F, Verification Checklist, to be returned in 31 days.

If any day in the mandatory 21 calendar day attendance compliance test is during summer break, verify the dependent child or minor parent's enrollment. Once the new school year has started, initiate the attendance compliance test. Create a manual task and reminder in Bridges to complete the attendance compliance test at the start of the new school year. BEM 245 (July 2022)

In this case, on April 28, 2023, the Verification of Student Information was submitted stating that Petitioner's child is "attending sometimes". The submission of this form with an indication of "attending sometimes" should have triggered an attendance compliance test pursuant to BEM 245, that did not happen. Therefore, the denial for failing to meet student requirements was improper and incorrect and inconsistent with Department policy. Petitioner's child is on summer break and Petitioner credibly testified at hearing that his child intends to return to school. Petitioner's FIP application should be reinstated, and he should be instructed on what the next steps are to complete the PATH process.

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 Petitioner's FIP application for failing to meet student requirements.

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. Reinstate Petitioner's FIP application going back to the date of denial.
2. Instruct Petitioner on what the next steps are to complete the PATH process.
3. Activate FIP when Petitioner completes all PATH requirements.

AM/nr



Aaron McClintic
Administrative Law Judge

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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

Via-Electronic Mail :

DHHS
Elisa Daly
Saginaw County DHHS
411 East Genesee
Saginaw, MI 48607
**MDHHS-Saginaw-
Hearings@michigan.gov**

Interested Parties
Saginaw County DHHS
BSC2
B. Sanborn
MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED], MI [REDACTED]