

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No.: 2009-26499
Issue No.: 3014, 1010
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 27, 2009
Oakland County DHS (4)

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on July 27, 2009. The Claimant appeared and testified. [REDACTED], FIM, appeared on behalf of the Department.

ISSUE

Whether the Department properly processed Claimant's FIP and FAP case after he reported an additional child living with him?

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 active FIP and FAP recipient.
2. On 5/28/09, the Department was notified that two members of Claimant's case had not been living with him for the last three months. (See Exhibit 1, p. 1).

3. The Department removed the two from the FIP and FAP so that they could receive benefits on their own case.
4. Removal of the members closed the FIP case due to excess income and reduced FAP benefits (Exhibit 1, pp 2-8).
5. On June 8, 2009, the Department received the Claimant's Request for Hearing. (Exhibit 2).
6. On the same date, Claimant reported to the Department that his daughter, [REDACTED], had been living with him since 12/1/08 due to her mother being incarcerated. (Exhibit 2). Claimant testified that he requested Medical and FIP benefits for this daughter at that time.
7. The Department indicated that [REDACTED] was not placed on Claimant's case because she was already receiving assistance on another case.
8. The other case closed on 7/21/09 and benefits were paid through the end of July.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal

regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Group composition is the determination of which persons living together are included in the FAP program group. PEM 212, p. 1. The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First, it must be determined if they must be included in the group. If they are not mandatory group members, then it must be determined if they purchase and prepare food together or separately. Spouses and primary caretakers of minor children are considered mandatory group members. PEM 212, p. 1.

The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision in the home where the child sleeps more than half of the days in a calendar month, on average, in a twelve-month period. A caretaker is a related or unrelated person who provides care or supervision to a child(ren) under 18 who lives with the caretaker but who is not a natural, step or adopted child. A person acting as a parent and the child(ren) for whom he acts as a parent who live with him must be in the same group. Id. When primary caretaker status is questionable or disputed, the determination should be based on the evidence provided by the caretakers and each caretaker should be given the opportunity to provide evidence supporting his/her claim. Id. at 10.

In the instant case, Claimant testified that he is the father and primary caretaker of his daughter since 12/1/08 although both Claimant and the Department acknowledge that Claimant did not report the daughter living with him until 6/8/09. While Claimant's daughter was on

another's case at the time that Claimant reported the daughter living with him, it does not appear that anyone contested that the daughter was living with Claimant at the time that he requested benefits for her. When this Administrative Law Judge questioned why the other case did not close sooner, the Department responded "probably because it was not communicated to the worker on the other case." The Department has an obligation to communicate this type of information in a timely manner. The undersigned finds that since the daughter was living with Claimant and not the other caretaker, and there was no conflict regarding the residence of the daughter, Claimant should be entitled to benefits since the time that he reported the child was living with him.

Based upon the foregoing facts and relevant law, it is found that the Department's determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly delayed calculation of FIP and FAP benefits following the reporting of additional child residing with Claimant.

Accordingly, it is Ordered:

1. The Department's failure to open an application and calculate FIP and FAP benefits based on the minor child, Nyzia Moore, living with Claimant is REVERSED.
2. The Department shall open the Claimant's application from the date of reporting the minor child living with him, 6/8/09, process and calculate whether benefits are due and supplement the Claimant for any lost benefits he was otherwise entitled to receive in accordance with department policy.

/s/ _____
Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/20/09

Date Mailed: 08/25/09

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JV/jlg

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