

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: 2009-28174
Issue No: 1010; 3012
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 26, 2009
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Keegstra

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 held on August 26, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly add the claimant's daughter to his FAP/FIP case in June, 2009?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. On April 1, 2009, the claimant reported that his daughter, [REDACTED] was now living with him and requested she be added to his FAP case.

2. The daughter, [REDACTED] was active on her mother's FAP case.
(Department Exhibit 2).

3. On May 5, 2009, the claimant applied for FIP benefits for himself and his daughter. [REDACTED]

4. The claimant's daughter was not removed from her mother's FAP/FIP case until June 1, 2009. (Department Exhibit 1, 3).

5. The claimant's daughter was added to the claimant's FIP/FAP case on June 1, 2009. (Department Exhibit 6)

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 (DHS or department) 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (PEM) and the Bridges Reference Manual (BRM).

Department policy states:

Member Adds/Deletes

A member add that increases benefits is effective the month after it is reported or, if the new member left another group, the month after the member delete. In determining the potential FAP benefit increase, assume the FIP/SDA supplement and new grant amount have been authorized.

When a member leaves a group to apply on his own or to join another group, do a member delete in the month you learn of the application/member add. Initiate recoupment if necessary. If the member delete decreases benefits, use adequate notice for the negative action. BEM, Item 212, p. 7.

Persons Who Have Already Received FAP Benefits

A person must not participate as a member of more than one FAP group in any given month. (See BEM 222)

Exception: Residents of shelters for battered women and children. (See BEM 617)

If a person is a mandatory group member, action must be taken as soon as possible to remove him from his former group and add him to the new group. BEM, Item 212, p. 8.

Department policy directs the department to do a member delete the month the department learns of the application or member add. BEM 212. Policy also states that a member add that increases benefits is effective the month after it is reported. BEM 212.

The department does not dispute that the claimant reported his daughter as residing with him and updated his application to reflect this on April 1, 2009. The department representative testified that the case worker did email the case worker for the mother and request [REDACTED] be removed from the FAP group and added to claimant's FAP group. However, this did not occur until June 1, 2009. This should have been effective on May 1, 2009, (the month after the change was reported).

Department policy forbids the duplicate receipt of benefits for any individual. BEM 222. Thus, as department policy points out, recoupment may be necessary. BEM 212. In this case,

the daughter should have been removed from her mother's case by May 1, 2009 and placed on the claimant's FAP case effective May 1, 2009. Since the member delete/add wasn't completed until June 1, 2009, the claimant lost one month of benefits when his daughter should have been placed on his case. The child's mother also received an extra month of FAP/FIP benefits that should be eligible for recoupment by the department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly added the daughter to the claimant's FAP case. The department should have added the claimant's daughter to the FAP case by May 1, 2009 and should have included the claimant's daughter for FIP benefits from the May 5, 2009 FIP application.

Accordingly, the department is REVERSED. The department shall:

1. Place the claimant's daughter on his FAP case effective May 1, 2009 and issue any supplement to his benefits as he is eligible for.
2. Add the claimant's daughter to his FIP case from the date of FIP application, May 5, 2009 and issue any supplement to his benefits as he is eligible for.
3. Initiate any recoupment action necessary for benefits improperly received by the mother of the child for the month of May, 2009.

/s/ _____
Suzanne L. Keegstra
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 28, 2009

Date Mailed: October 29, 2009

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

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