

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: 2009-33277
Issue No: 1022
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 30, 2010
Kent County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on June 26, 2009. After due notice, a telephone hearing was held on Wednesday, June 30, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined the Claimant's Family Independence Program (FIP) eligibility?

FINDINGS OF FACT

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

- (1) The Claimant applied for FIP benefits.
- (2) The Claimant's has two grandchildren that were placed in her custody.
- (3) The Claimant's grandson receives Supplemental Security Income (SSI) benefits.

Department Exhibit 2.

(4) The Claimant's granddaughter is a group member of her mother's active FIP case. Department Exhibit 3 – 4.

(5) The Department denied the Claimant's application for FIP benefits.

(6) The Department received the Claimant's request for a hearing on June 26, 2009, protesting the Department's denial of FIP benefits.

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Cash assistance is available to eligibility determination groups who meet all of the non-financial and financial requirements that are needed to determine eligibility and calculate benefit amounts. BEM 209. A person cannot receive both SSI and FIP for the same month. BEM 222. The Department will re-evaluate the primary caretaker's status when a second caretaker disputes the first caretaker's claim of the number of days the child sleeps in his/her, and once a caretaker is determined to be the Primary Caretaker, the child's other caretakers are considered Absent Caretakers. BEM 210. A FIP certified group may be composed of only adults under specified circumstances, including the caretaker of a dependent child who would be eligible for FIP except for the child's receipt of SSI. BEM 210.

The Claimant applied for FIP benefits on March 31, 2009. The Claimant had taken custody of two grandchildren, and she would be otherwise ineligible to receive FIP benefits. On of the grandchildren listed on the Claimant's application for FIP was already a group member of another FIP group on March 31, 2009. Since this person was residing in the Claimant's household, the Claimant's application for FIP benefits created a dispute as to the proper primary caretaker of this granddaughter.

The Department must give a client a reasonable opportunity to resolve any discrepancy between her statements and information from another source. BAM 130. The Department did not present evidence that it reevaluated the primary caretaker status of the two grandchildren after it received the Claimant's application for assistance. The Department denied the Claimant's application for FIP benefits without giving her the opportunity to resolve the discrepancy as to the proper primary caretaker of her grandchildren.

The Department failed to establish that it acted in accordance with policy when it determined the Claimant's eligibility for FIP benefits without resolving discrepancy as to the primary caretaker of the children listed on the Claimant's application for assistance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department failed to establish that it properly determined the Claimant's eligibility for FIP benefits.

Accordingly, the Department's FAP eligibility determination is REVERSED. It is further ORDERED that the Department shall:

(1) Initiate a determination of the Claimant's eligibility for the FIP program as of March 31, 2009.

- (2) Give the Claimant the opportunity to resolve the discrepancy concerning the primary caretaker of the children listed on her application for FIP benefits.
- (3) Issue the Claimant any retroactive benefits she may be eligible to receive, if any.
- (4) Notify the Claimant in writing of the Department's determination of eligibility for FIP benefits.

/s/_____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 20, 2010

Date Mailed: July 20, 2010

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.

KS/vc

cc:

