

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.: 2009-33606
Issue No.: 1022, 2015, 3014
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
January 14, 2010
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Linda Steadley Schwarb

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 hearing was held on January 14, 2010. Claimant appeared and testified.

ISSUE

Did the Department of Human Services (DHS or department) determine the appropriate group composition for claimant's application for Family Independence Program (FIP), Food Assistance Program (FAP), and Medical Assistance (MA) program benefits?

FINDINGS OF FACT

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

- 1) Initially, claimant and her minor daughter resided with claimant's father. The three-person group received FIP, FAP, and MA.

- 2) Thereafter, claimant and her minor daughter moved out of claimant's father's home.
- 3) On April 16, 2009, claimant applied for FIP, FAP, and MA for herself and her minor daughter.
- 4) The department then discovered that claimant and claimant's minor daughter were both still on claimant's father's case in another district office.
- 5) On April 29, 2009, claimant was removed from claimant's father's case but claimant's minor daughter was retained on claimant's father's case.
- 6) On July 1, 2009, the department denied FIP to claimant because claimant's minor daughter was still on claimant's father's case. The department did open MA and FAP for claimant as a group of one.
- 7) On July 14, 2009, claimant filed a hearing request to protest the department's failure to provide FIP benefits and refusal to open MA and FAP for claimant's daughter on claimant's case.
- 8) Some time in August of 2009, claimant's daughter was removed from claimant's father's case.
- 9) Effective August 1, 2009, the department opened MA for claimant's daughter on claimant's case and added claimant's daughter to claimant's FAP group.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. 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 (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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Relevant departmental policy at the time of the application provided as follows:

FIP Group Composition

The department believes that children are best served by living in supportive family settings ... Parents are responsible for the care and support of their minor children. In the absence of parents, children may be cared for by other adults having specific relationships to the children ... Group composition is the determination of which individuals living together are included in the FIP group program and the eligible group. To be eligible for FIP, a child must live with a qualifying caretaker. PEM Item 210, page 1.

Caretaking Time Disputed

Accept the client's statement about how many days per month the child sleeps in their home unless questionable or disputed by another caretaker ... When primary caretaker status is questionable or disputed, give each caretaker the opportunity to provide evidence of their claim. Base your primary caretaker determination upon best available information and evidence supplied by the caretakers. PEM Item 210, page 6.

MA Group Composition

Group 2 FIP-Related MA

- Only persons living with one another can be in the same group. PEM Item 211, page 1.

Food Assistance Program Group Composition

You must determine who is included in the Food Assistance Program (FAP) group prior to evaluating the non financial and financial eligibility of everyone in the group.

To establish FAP group composition determine:

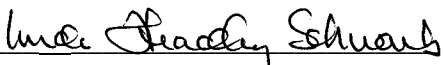
1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and
4. Whether the person(s) resides in an eligible living situation.
PEM Item 212, page 1.

In this case, the department did not follow policy. If there was a question as to where claimant's minor child resided or who the primary caretaker was, the department was required to give competing caretakers an opportunity to provide evidence or verification of their claim. The department was obligated to base a primary caretaker determination upon best available information and evidence supplied by the caretakers. The department may not deny benefits simply because another district office has an open case for the child in question. Accordingly, the department is ordered to initiate reconsideration of claimant's April 16, 2009, application for

benefits. The department shall supplement any lost benefits as necessary and, if appropriate, initiate recoupment efforts against claimant's father. Also see PEM Item 210, pages 8 and 9.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services failed to make an appropriate determination of group composition when processing claimant's application for Family Independence Program, Food Assistance Program, and Medical Assistance program benefits. Accordingly, the department is ordered to initiate reconsideration of claimant's April 16, 2009, application for benefits. The department shall supplement lost benefits as necessary. The department shall notify claimant in writing of its determination.


Linda Steadley Schwarz
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 24, 2010

Date Mailed: March 25, 2010

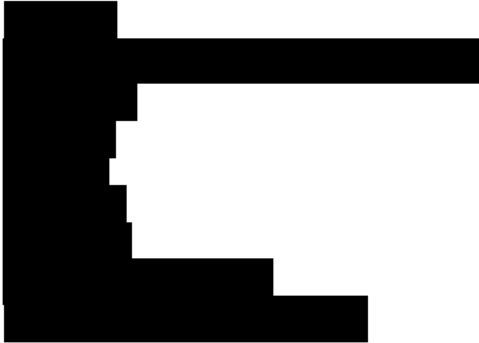
NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

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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.

LSS/pf

cc:

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