

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: 200932613
Issue No: 3005
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
September 30, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 September 30, 2009.

ISSUE

Were the claimant's FAP and FIP benefits supplemented to the appropriate time period?

FINDINGS OF FACT

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

- (1) Claimant was a FAP recipient in Wayne County.
- (2) Claimant became guardian of four children during April and May, 2009.
- (3) Sometime in late April, claimant attempted to apply for benefits for [REDACTED], one of the children she took in.
- (4) Claimant was told that she would not be given an application because the child was already on another case.

- (5) Claimant came back to DHS on May 5, 2009, and applied for benefits.
- (6) On June 2, 2009, claimant applied for benefits for the other three children.
- (7) Claimant was eventually awarded supplemental FAP benefits to June for all four children, and FIP benefits to June for all children.
- (8) FAP and FIP benefits were not issued back to May for [REDACTED].
- (9) Claimant requested a hearing on August 6, 2009, arguing that supplemental FIP and FAP benefits should have been awarded for [REDACTED].

CONCLUSIONS OF LAW

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).

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).

In FAP cases, 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. PEM 212.

In FIP cases, a change takes effect for the first benefit month 10 days after the date the change was reported. PAM 220.

Claimant argues that she reported to the Department on April 23, 2009 that [REDACTED] had become a member of the household, but the Department did not take action.

Policy states that this fact set, if true, is irrelevant for the purposes of FIP. An FIP change takes effect in the first benefit month that occurs 10 days after the change was reported.

Assuming claimant reported this change on April 23, 2009, 10 days after this report would be May 3, 2009. The benefit month following this date would be June. An examination of the disbursement record, Department Exhibit 5, shows that claimant was supplemented FIP benefits for the correct amount of children for the month of June. Therefore, even if claimant did report the household addition on April 23, 2009, the benefits should not have increased until June. The Department increased benefits in this month, making the Department action correct.

However, FAP allocations are a different story. FAP member additions are to be processed for the month after the change is reported, or the month after the member delete, if the member is leaving another group. PEM 212. The undersigned believes that the child should have been deleted from his previous group as soon as he left his previous group, which was April, 2009. Therefore, if claimant reported the change on April 23, 2009, the first benefit month to be affected would be May, 2009.

Claimant testified that she attempted to file an application with the Department on behalf of [REDACTED] on April 23, 2009. While it is admittedly true that claimant's name does not appear on the sign in logs for that day (Claimant Exhibit 1), claimant did submit good evidence that the child had entered her household several days prior in Claimant Exhibit 2. Given the relatively small amount of benefits claimant is asking to be supplemented, the undersigned is

prepared to give claimant the benefit of the doubt, and find her contention that she attempted to apply and notified the Department of the change in April to be credible. Therefore, FAP benefits for [REDACTED] should be supplemented back to May, 2009.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the claimant was eligible for an FAP benefit in the month of May, 2009 for the group member [REDACTED].

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to issue supplemental FAP benefits to claimant on behalf of FAP group member [REDACTED] for the month of May 2009. Eligibility for this month shall be determined based upon factors that the Department used in benefit calculations for the month of June 2009 onward.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/21/10

Date Mailed: 01/22/10

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.

2009-32613/RJC

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.

RJC/dj

cc:

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