

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: 2009-3854
Issue No: 1002; 3003
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
April 29, 2009
Wayne 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 April 29, 2009. The claimant personally appeared and provided testimony.

ISSUE

Did the department properly not consider the claimant for Family Independence Program (FIP) benefits and deny the claimant for Food Assistance Program (FAP) benefits when she submitted an application in June, 2008?

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 had a child, [REDACTED], legally placed into her custody on, June 13, 2008.
2. The claimant applied for FAP and Child Daycare and Development (CDC) on June 30, 2008.

2. The claimant did not apply for Family Independence Program (FIP) benefits in June, 2008.

3. The claimant's application for FAP was denied due to excess income. The claimant was approved for CDC benefits.

4. The claimant applied for FIP benefits on October 6, 2008. The claimant was approved as an ineligible grantee for FIP benefits for the child placed into her custody.

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 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 Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990,

and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (DHS or department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Department policy states:

FOOD ASSISTANCE PROGRAM GROUP COMPOSITION

DEPARTMENT POLICY

You must determine who is included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial 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. (See "LIVING SITUATIONS" in this item.)

PEM, Item 212, p. 1.

RELATIONSHIPS

The relationship(s) of the people who live together affects whether they must be included or excluded from the group. First determine if they **must** be included in the group. If they are **not** mandatory group members, then determine if they purchase and prepare food together or separately. PEM, Item 212, p. 1.

Spouses

Spouses who are legally married and live together **must** be in the same group. PEM, Item 212, p. 1.

Parents and Children

Children include natural, step and adopted children.

Parents and their children **under 22 years of age** who live together **must** be in the same group regardless of whether the child has his/her own spouse or child who lives with the group. PEM, Item 212, p. 1.

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Primary Caretaker

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. PEM, Item 212, p. 1.

Caretaker

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. This policy does **not** apply to foster children (see below). 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. PEM, Item 212, p. 1.

Legal Guardian

Whenever a FIP eligible child has a legal guardian, the legal guardian must be the protective payee for the FIP grant. See PAM 420. This applies whether or not the guardian resides with the FIP group and continues until guardianship is terminated. Verify termination of legal guardianship prior to terminating the protective payee. See "VERIFICATION SOURCES" in this item.

Note: When a legal guardian is receiving FIP for a child, and the parent subsequently returns to the home, the parent must be added to the FIP and the legal guardian must be made a protective payee. PEM 210, p. 7.

The claimant had a child legally placed into her custody on June 13, 2008. Due to this, the claimant applied for CDC and FAP benefits for the child on June 30, 2008. The claimant's application for FAP was denied due to excess income. The claimant was approved for CDC benefits beginning June 30, 2008.

Department policy indicates that the FAP group of a child must include the parent, caretaker or legal guardians. A person acting as a parent and the child for whom she or he acts as a parent who live with him **must** be in the same group. PEM, Item 212, p. 1. Thus, the department properly determined that the claimant was part of the child's FAP group and determined the claimant had excess income to qualify for FAP benefits.

The claimant testified that she did not have any issues with her CDC benefits. The CDC application was approved and the claimant began receiving CDC benefits for the child on June 30, 2008.

The claimant testified that her other hearing issue was that the department didn't tell her that she could have been eligible for cash assistance for the child through FIP. However, the claimant did not apply for cash assistance on her June 30, 2008, application. The Assistance Application (DHS-1171) clearly asks what assistance the claimant is requesting. The box marked "cash assistance" was not marked by the claimant. The department is not under an obligation to search out programs that the claimant may be eligible for; rather, the claimant has the obligation to request any program she wishes to be considered for. Thus, the department properly did not consider the claimant for FIP eligibility as she did not request FIP, or cash assistance.

It is noted that the claimant did apply for FIP on an application dated October 6, 2008. The department representative testified that the claimant was approved for FIP for the minor

child, with the claimant as an ineligible grantee. Department policy indicates that when FIP eligibility is based on the presence of a child placed in the home, the adult may only be an ineligible grantee on the child's case. PEM, Item 210, p. 5. Thus, the department did properly approve the claimant's FIP application dated October 6, 2008. The claimant testified that she didn't think she had gotten paid for FIP benefits in November. The department representative testified that the claimant should have started receiving FIP benefits in November, 2008, but that she didn't have information confirming the claimant had received the November, 2008 FIP benefits. Thus, the department worker did agree to ensure that the claimant did receive her FIP benefits beginning in November, 2008.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department properly did not consider the claimant for FIP benefits until she requested them on October 6, 2008, and properly determined the claimant had excess income for FAP benefits.

Accordingly, the department's actions are UPHeld. SO ORDERED.

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

Date Signed: June 16, 2009

Date Mailed: June 18, 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.

SLK [REDACTED]

cc: [REDACTED]