

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: 2010-33352
Issue No: 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 2, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

DECISION AND ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on June 2, 2010. The Claimant appeared along with her mother [REDACTED] and both testified. [REDACTED] FIM and [REDACTED] appeared on behalf of the Department.

ISSUE

Was the Department correct in excluding Claimant's children from the household and closing her Family Independence Program case because her children began living with their father?

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 an ongoing recipient of FIP benefits.
- (2) In December 2009 Claimant's children began living with their father [REDACTED].
- (3) On April 1, 2010 Claimant's FIP case was closed because her children were excluded from the case after they began living with their father.
- (4) Claimant requested a hearing on April 12, 2010 contesting the exclusion of her children from the household.

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 Dependant Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference manual (PRM).

A legal parent or stepparent living with a dependent child is always the child's caretaker. BEM 210

In the present case, Claimant's children began living with their father in December 2009. When this was discovered by the Department, the Department excluded the children from Claimant's FIP case and closed her FIP case. Claimant conceded at hearing that her children have resided with their father since December 2009. Claimant stated at hearing that she agreed to the children going to live with their father in December 2009 but this was supposed to be a temporary arrangement. The children have

remained in their father's care against her wishes. No custody order is in place awarding custody to either parent. Department policy dictates that a legal parent or stepparent living with a dependent child is always the child's caretaker. BEM 210 Therefore the Department's actions in excluding Claimant's children from her case and closing her case are proper and correct.

Claimant expressed concern over the well being of her children since they have been in their father's care. Claimant was advised that these issues may be able to be addressed in the Family Court. If Claimant's children begin living with her in the future then her benefits may be reinstated.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law decides that the Department was correct in the closure of Claimant's FIP case, and it is ORDERED that the Department's decision in this regard be and is hereby AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/23/2010

Date Mailed: 06/23/2010

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.

AM/cjp

cc:

