

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2010-11589  
Issue No.: 1022/2012/3014  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: August 26, 2010  
Macomb County DHS (12)

**ADMINISTRATIVE LAW JUDGE:** Michael J. Bennane

**HEARING DECISION**

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 August 26, 2010. The claimant appeared and testified.

**ISSUE**

Did the Department properly calculate the Claimant's Family Independence Program (FIP), Food Assistance (FAP) and Medical Assistance (MA)?

**FINDINGS OF FACT**

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

1. On August 20, 2009, the claimant was awarded guardianship over four children.
2. On August 25, 2009, the claimant applied for FIP, FAP and MA in order to include four children that the claimant was given guardianship over.
3. The department refused to grant benefits to the claimant even though the court had awarded her custody and guardianship because the children's mother was still receiving benefits for the same children.
4. On October 7, 2009, the Claimant filed a request for a hearing.

**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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

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 (formerly known as the Family Independence Agency) 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 (formerly known as the Family Independence Agency) 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).

In the instant case the department refused to include the children after the court had granted custody to the claimant because they were still receiving benefits through their mother.

## **FIP**

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group (EDG) and the FIP certified group. To be eligible for FIP, a child must live with a legal parent, stepparent or other qualifying caretaker. (BEM 210, p.1)

## **FIP Recipients**

FIP recipients are automatically eligible for MA under this category starting the first day of the first month for which a FIP payment is made, including an early payment. (BEM 110, p.1)

## **DEPARTMENT POLICY**

Bridges will assist you in determining who must be included in the Food Assistance Program (FAP) group prior to evaluating the nonfinancial and financial eligibility of everyone in the group.

FAP group composition is established by determining:

Who lives together.

The relationship(s) of the people who live together.

Whether the people living together purchase and prepare food together or separately, and

Whether the person(s) resides in an eligible living situation (see Living Situations).

## **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.

### **Spouses**

**Spouses** who are legally married and live together **must** be in the same group.

### **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.

For ongoing and intake applications where the child is not yet 22, they are potentially eligible for their own case, the month after turning 22.

### **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.

**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. (BEM 212, p.1).

In the instant case the department was obligated to include the children when the court granted guardianship to the claimant and they actually began to live with the claimant.

The department may move to recoup benefits paid to the children's mother for any period of time that they were not living with their mother.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, **REVERSES AND ORDERS** the Department to reregister and process the August 25, 2009, application and replace any lost benefits in the claimant's FAP, FIP and MA.



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Michael J. Bennane  
Administrative Law Judge  
For Ismael Ahmed, Director  
Department of Human Services

Date Signed: 9/14/2010

Date Mailed: 9/14/2010

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**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 of the rehearing decision.

MJB/jlg

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