

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: 2010-11832
Issue No: 1022; 3015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
March 25, 2010
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 March 25, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly cancel claimant's Family Independence Program (FIP) benefits based upon its determination that claimant no longer had a minor child living in the home?

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 Family Independence Program benefit recipient who had a minor child living in his home.

(2) The JET-FIS worker was notified that claimant's daughter moved out of his home.

(3) Since this was the only child in the home, the FIP benefits were scheduled to end and the Food Assistance Program benefits was reduced to \$ [REDACTED] per month for a household of one person.

(4) On September 15, 2009, the department caseworker sent claimant notice that his FIP benefits in the amount of \$ [REDACTED] per month would be cancelled and his Food Assistance Program benefits in the amount of \$ [REDACTED] per month would be reduced to \$ [REDACTED]

(5) On October 16, 2009, claimant filed a request for hearing to contest the department's negative action.

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 Department of Human Services (DHS) believes that children are best served by living in supportive family settings. The mutual responsibility of family members for each other and their commitment to caring for each other are key to building strong families. Group composition is the determination of which individuals living together are included in the FIP Eligibility Determination Group (EDG) in the FIP certified group. To be eligible for FIP, a child

must live with a legal parent, step-parent or other qualifying caretakers. A caretaker is a legal parent or step-parent living in the home who acts as a parent to the dependent child by providing physical care and supervision. BEM, Item 210, p .1.

A dependent child is an un-emancipated child who lives with a caretaker and is one of the following:

- Under age 18
- Age 18 or 19 and a full-time high school student expected to graduate before age 20.

The Eligibility Determination Group means those individuals living together whose information is needed to determine FIP eligibility. BEM, Item 210, p. 1. Living together and sharing a home where family members usually sleep except for temporary absences. BEM, Item 210, p. 2. The primary caretaker is the caretaker who is primarily responsible for a child's day to day care and supervision in the home where the child sleeps more than half of the days in a month when averaged over a 12 month period. The 12 month period begins at the time the determination is made. BEM, 210, p. 2, claimant testified on the record that his daughter moved out and no longer lives with him. An FIP certified group with no child in the home may be composed of only adults under specified circumstances. Groups with no eligible child may consist of the following:

- a pregnant woman and if married her husband.
- the caretaker of a dependent child who would be eligible for FIP except for the child's receipt of SSI.

- A legal parent and/or step-parent of a dependent child in a out-of-home foster care placement due to abuse or neglect when there is a plan to return the child to the parents home.

Eligibility of this child is allowed for up to one year. BEM, Item 210, pp. 10, 11.

In the instant case, there is not child living in claimant's home. Claimant does not meet any of the eligibility criteria for a FIP certified group with no child. Therefore, the department has established by the necessary, competent, material and substantial evidence on the record that it was acting in compliance with department policy when it cancelled claimant's FIP benefits based upon the fact that there was no eligible child living in the home with claimant.

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).

In the instant case, claimant does not have any income. Therefore, he receives \$ [REDACTED] in Food Assistance Program benefits, which is the maximum available Food Assistance Program benefit to a person in claimant circumstances.

The department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it reduced claimant's Food Assistance Program benefits to \$ [REDACTED] per month based upon the fact that claimant's daughter is no longer living with him.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department properly cancelled claimant's Family Independence Program benefits because there was no eligible child living in the home with claimant and also reduced claimant's Food Assistance Program benefits to \$ [REDACTED] per month based upon the fact that he was only a physical group of one person instead of a physical group of two persons once his daughter moved out.

Accordingly, the department's decision is AFFIRMED.

/s/ _____
Landis Y. Lain
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 15, 2010

Date Mailed: April 15, 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.

LYL/alc

cc:

