

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: 2010-30755
Issue No: 1022
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
May 12, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on March 26, 2010. After due notice, a telephone hearing was held on Wednesday, May 12, 2010.

ISSUES

- (1) Whether the Department of Human Services (Department) properly reduced the Claimant's Food Assistance Program (FAP) benefits?
- (2) Whether the Department properly terminated the Claimant's Family Independence Program (FIP) benefits?

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 received FAP and FIP benefits.

(2) The Claimant's son was removed from his home and placed in juvenile detention on [REDACTED]

(3) On January 28, 2010, the Department terminated the Claimant's FIP benefits, and reduced the Claimant's FAP benefits. Department Exhibit 3.

(4) The Department received the Claimant's request for a hearing on March 26, 2010, protesting the termination of his FIP benefits and reduction of his FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp 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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

FAP group composition is established by determining who lives together, the relationship of the people who live together, whether the people living together purchase and prepare food together or separately, and whether the persons resides in an eligible living situation. BEM 212. A person who is temporarily absent from the group is considered living with the group. A person's absence is temporary if:

- his location is known,
- he lived with the group before his absence,
- there is a definite plan for his return, and
- the absence has lasted or is expected to last 30 days or less.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

Group composition is the determination of which individuals living together are included in the FIP eligibility determination group 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. A temporarily absent person is considered to be living in the home when all of the following are true:

- the individual's location is known,
- there is a definite plan to return,
- the individual lived with the FIP eligibility determination group before the absence, and
- The absence has lasted or is expected to last 30 days or less. BEM 210

In this case, on January 28, 2010, the Department was aware that the Claimant's son was out of the home and confined to juvenile detention. At that time, the Claimant's son was in a known location and he had been living within the FAP/FIP group before his absence, but there was no definite plan for his return to the Claimant's home. The Claimant's son returned home on [REDACTED], but the Claimant did not inform the Department of his return home until

March 17, 2010. Therefore, the Claimant's son no longer qualified as a FAP or FIP group member, and he was not considered temporarily absent.

Because Claimant's son was no longer in the Claimant's FAP group, the Department reduced the Claimant's FAP monthly allotment to [REDACTED], which is the maximum amount that a group of one can receive. Because the Claimant's son was no longer in the Claimant's FIP group, he was no longer eligible for FIP benefits.

This Administrative Law Judge finds that the Department properly determined that the Claimant's son was not living in the Claimant's home, and was not temporarily absent. Therefore, the Department properly reduced the Claimant's FAP benefits and terminated his FIP benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly reduced the Claimant's FAP benefits, and terminated his FIP benefits.

The Department's FAP and FIP eligibility determinations are AFFIRMED. It is SO ORDERED.

/s/ _____
Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: May 20, 2010

Date Mailed: May 21, 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.

KS/vc

cc:

