

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: 2010-32206
IssueNo: 1022
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 2, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 conducted from Detroit, Michigan on June 2, 2010. The Claimant appeared and testified. Sheila Talley, FIS appeared on behalf of the Department.

ISSUES

Whether the Department properly denied the Claimant's application for Family Independence Program (FIP) benefits, Medical Assistance (MA) and Child Day Care (CDC) because his daughter had a case open for her with her mother.

FINDINGS OF FACT

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

1. On March 19, 2010, the Claimant applied for FIP, FAP, CDC and MA.

2. The Claimant was issued FAP benefits for a group of one member and was denied FIP, CDC, and MA because the child listed on Claimant's application was already receiving benefits on another open case.
3. The Department issued a Notice of Case Action on 3/29/10 denying the Claimant's application for FIP, CDC, and MA. Exhibit 1
4. At the time of his application, the Claimant had his daughter, [REDACTED], living with him, but his daughter already had a case open with her mother's case.
5. In August 2005, the Claimant was granted sole legal and physical custody of his daughter, but, from time to time, she would stay with her mother as the mother was afforded parenting time. (Exhibit 2) In May 2009, the Claimant was temporarily incarcerated and the child stayed with her mother until January 2010.
6. The Claimant provided the Department with a copy of the Court Order shortly after making the application, together with his identification and the child's birth certificate. Exhibit 2
7. Recently, on May 29, 2010, the Claimant's daughter came to reside with the Claimant after being taken from his home without his permission by the mother.
8. As of May 1, 2010, the Claimant's daughter's case with her mother is no longer active for FIP cash assistance, and the Department has removed the Claimant's child from her mother's case. Exhibit 3
9. The Claimant's caseworker attempted to verify where the Claimant's child was residing after the Claimant filed the application and discussed the matter via email several times with the child's mother's caseworker. The Claimant's caseworker was also told by the child's mother that the child was residing with her. Exhibit 5

10. The Department received Claimant's hearing request on March 30, 2010 protesting the denial of his applications. The application was received by the Department on April 14, 2010.

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 (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 Bridges/Program Administrative Manual (BAM/PAM), the Bridges/Program Eligibility Manual (BEM/PEM) and the Reference Tables (RFT).

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

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq.* and MAC R 400.3001-3015. Departmental

policies are found in the Bridges/Program Administrative Manual (“BAM/PAM”), the Bridges/Program Eligibility Manual (“BEM/PEM”), and the Bridges/Program Reference Manual (“BRM/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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Program Reference Manual (PRM).

Clients must cooperate with the local office in determining initial and ongoing eligibility to provide verification. BAM 130, p. 1. The questionable information might be from the client or a third party. Id. The Department can use documents, collateral contacts or home calls to verify information. Id. The client should be allowed 10 calendar days to provide the verification. If the client cannot provide the verification despite a reasonable effort, the time limit to provide should be extended at least once. BAM 130, p.4; PEM 702. If the client refuses to provide the information or has not made a reasonable effort within the specified time period, then policy directs that a negative action be issued. PAM 130, p. 4. Before making an eligibility determination, however, the department must give the client a reasonable opportunity to resolve any discrepancy between his statements and information from another source. BAM 130, p. 6.

Pursuant to BEM 212 FAP group composition and BEM 210 FIP group composition, the Department is required to re evaluate the primary caretaker status when a second caretaker disputes the first caretakers claim that the child sleeps at the home or a second caretaker applies for assistance for the same child. BEM 212 page 4. BEM 210 page 9.

The Claimant in this matter testified credibly that he provided the Department with the Order of Custody granting him sole legal and physical custody of his child shortly after making his application for benefits. The Department correctly issued the Claimant FAP benefits for a group of one member so there is no issue with regards to that action taken by the Department. The Claimant also testified that on the date of the application, his daughter was living with him and was living with him on the date of the hearing. There was a period during the pendency of the Department's investigation when she was not living with the Claimant.

The Department attempted, through collateral contact with the mother of the Claimant's child, to determine who the child was living with and ultimately was successful in resolving the issue and the child was removed from the mother's case. The Department's denial of the Claimant's application, rather than keeping the Claimant's application open for benefit programs which required an investigation, was in error. The application should have remained open pending a conclusion of the investigation by the Department regarding the issue of primary caretaker. The application should have been kept open for the Claimant's benefit requests for CDC, FIP, and Medical Assistance while the Department investigated. The Claimant should not be denied these benefits beginning May 1, 2010 if he is otherwise eligible to receive same.

Department policy does provide that a child cannot be on multiple cases receiving the same benefits but does not support denying an application simply because there is a dispute about primary caretaker.

The Claimant provided the Department adequate verification of his legal right to legal and physical custody of the child and should not be penalized. Even though it took almost two months to get the Child's mother to relinquish the child from her case, once that occurred, the Claimant's application should have been evaluated for eligibility. The Department, for its part, acted properly in attempting to resolve the issue and some confusion was created by the child's mother which was ultimately resolved.

BAM 130 at pages 5 and 6 provides that Claimant's are allowed 10 days to provide request information and must extend the time for filing if a reasonable effort is made to provide the information. The case should only be placed in negative action when the client refuses to provide the information and has not made of reasonable effort.

The Department closed the claimant's case even though the Claimant signed a written statement, by way of the application for benefits that the child resided with him and the Child Custody Court Order, which he provided the Department. This was sufficient information to keep the Claimant's case pending while it was investigated. The Department did not submit, with its proofs, any verification checklists sent to the Claimant, which required that any other information be submitted by the claimant.

Based upon the foregoing, it is found that the Department closed the Claimant's case improperly as the claimant did comply with the Department's verification of custody; and that during the period the Department investigated primary caretaker status and made efforts to resolve the matter, it should have kept the application pending. All along, the Claimant made a good faith effort to provide the requested information and did not refuse or fail to cooperate and made reasonable efforts. Accordingly, the Department's decision to close the claimant's FIP, CDC and MA application is, hereby, REVERSED.

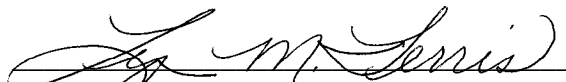
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department improperly closed the Claimant's FIP, FAP, and MA benefits.

Accordingly, it is ORDERED:

The Department's decision to grant the Claimant's FAP benefits for a group of one, pursuant to the Claimant's application filed March 19, 2010 and its Notice of Case Action of 3/29/10, is AFFIRMED. The Department is further ordered to recalculate the Claimant's FAP budget from May 29, 2010 for a group of 2 and to supplement the Claimant for FAP benefits retroactive to that date if the Department has not already recalculated the FAP budget to account for the change in group size.

The Department's action denying the Claimant's 3/19/10 application for FIP, MA, and CDC is REVERSED. The Department is ORDERED to reinstate the Claimant's March 19, 2010 application for FIP, Medical Assistance, and CDC. If the Claimant is otherwise eligible to receive these benefits, Claimant should be granted benefits and supplemented for benefits, retroactive to May 1, 2010, the date the Claimant's daughter was removed from her mother's case.



Lynn M. Ferris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/29/10

Date Mailed: 07/01/10

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.

LMF/dj

cc:

