

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: 2010-41923
Issue No: 1022, 2015, 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
August 11, 2010
Manistee County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 hearing was held on August 11, 2010. Claimant appeared and testified.

ISSUES

Did the Department of Human Services properly close Claimant's Family Independence Program (FIP) case because her daughter no longer lived with her?

Did the Department of Human Services properly close Claimant's Medical Assistance (MA) case because her daughter no longer lived with her?

Did the Department of Human Services properly reduce Claimant's Food Assistance Program (FAP) benefits because her daughter no longer lived with her?

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 Family Independence Program (FIP), Medical Assistance (MA) and Food Assistance Program (FAP) benefits. Claimant's benefit group consisted of herself and her 16 year old daughter.

(2) On June 18, 2010, Claimant daughter, [REDACTED] provided the Department with a written, signed statement that since October 2009 she had only lived with Claimant for one month. Claimant was sent a Notice of Case Action (DHS-1605) stating her Family Independence Program (FIP) and Medical Assistance (MA) cases would close and her Food Assistance Program (FAP) benefits would be reduced.

(3) On June 29, 2010, Claimant submitted a timely request for hearing.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) 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 (DHS or department) 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 Program Reference Manual (PRM).

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

Claimant testified that in October 2009 she lost her home and she and [REDACTED] moved in with her (Claimant's) mother. Claimant testified that [REDACTED] goes off and stays with other relatives on a regular basis but comes back and stays with her (Claimant) for a couple of days on a regular basis. Department policy provides the following guidance for case workers. The Department's policies are available on the internet through the Department's website.

FIP GROUP COMPOSITION

DEPARTMENT PHILOSOPHY

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. Parents are responsible for the care and support of their minor children. In the absence of parents, children may be cared for by other adults having specific relationships to the children. Spouses are responsible for each other. All needy family members living together are expected to share income, assets, and expenses.

DEPARTMENT POLICY 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.

DEFINITIONS

Caretaker

A **caretaker** is a legal parent or stepparent living in the home, or when no legal parent or stepparent lives in the home, another adult who acts as a parent to a dependent child by providing physical care and supervision. See [Who May Be a FIP Caretaker?](#), later in this item.

Certified Group

The certified group means those individuals in the FIP EDG who meet all non-financial FIP eligibility factors. Countable income and assets of certified group members are considered in determining FIP eligibility. Certified group members have a FIP EDG participation status of **Eligible Child** or **Eligible Adult**.

Note: The FIP payment standard is based on the FIP certified group size.

Dependent Child

A **dependent child** is an unemancipated 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. See [BEM 245](#), for definition of high school.

Note: See definition of [Emancipated](#), later in this item.

Eligibility Determination Group

The eligibility determination group, (EDG) means those individuals living together whose information is needed to determine FIP eligibility. Based on data entry, an ad rules programmed into the system, Bridges assigns an EDG participation status to each member of the household.

EDG Participation Status

The FIP EDG participation status explains the role the individual plays in the FIP eligibility determination. Individuals having a FIP EDG participation status other than **Excluded Adult** or **Excluded Child**, are included in the FIP EDG. The countable income and assets of individuals having an **eligible** or **disqualified** FIP EDG participation status are considered in determining FIP eligibility.

Emancipated

A child is **emancipated** if any of the following:

- Ever validly married.
- Emancipated by court order.
- On active duty with the armed forces of the United States.

Joint Physical Custody

Joint physical custody occurs when parents or other caretakers alternate taking responsibility for the child's day-to-day care and supervision in separate homes. It may be included in a court order or may be an informal arrangement between parents or other caretakers.

Living Together

Living together means sharing a home where family members usually sleep except for temporary absences.

Primary Caretaker

The **Primary Caretaker** is the caretaker 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 month, when averaged over a twelve-month period. The twelve-month period begins at the time the determination is being made.

Absent Caretaker

Once a caretaker is determined to be the Primary Caretaker, the child's other caretakers are considered **Absent Caretakers**.

Temporary Absence

A temporarily absent person is considered to be living in the home

when **all** of the following are true:

- Individual's location is known.
- There is a definite plan to return.
- The individual lived with the FIP EDG before the absence (newborns are considered to have lived with the FIP EDG).
- The absence has lasted or is expected to last 30 days or less.

Exception: An individual is still considered to be living in the home, even after 30 days if the absence reason is any of the following:

- In the hospital (including a psychiatric hospital).
- In a residential substance abuse treatment center.
- Absent for school or training.
- Absent due solely to active duty in the uniformed services of the U.S.
- A child who is living apart from a parent due solely to the parent residing in a domestic violence shelter.

Note: A dependent child who is temporarily absent, can be considered living with only one caretaker. When a child sleeps in the home of multiple caretakers who do not live together, Bridges makes a primary caretaker determination. See [Determining Primary Caretaker](#) in this item.

DETERMINING 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 the days in a month, when averaged over a twelve-month period. The twelve-month period begins at the time the determination is being made. (BEM 210)

FOOD ASSISTANCE PROGRAM GROUP COMPOSITION

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:

1. Who lives together.
2. The relationship(s) of the people who live together.
3. Whether the people living together purchase and prepare food together or separately, and
4. 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.

Note: 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.

Example: Emma's grandson Pete (age 15) lives with her and she receives FIP for him as an ineligible grantee. She provides for his care by giving him a place to live, clothing, etc. Emma and Pete must be in the same group.

Example: Polly's niece Peggy (age 17) lives with her. Peggy has a full-time job, pays room rent and buys her own food. Polly states that she has just provided a place to live in exchange for the room rent, she does not supervise Peggy's activities. Polly and Peggy are separate groups. Either may apply with separate group status.

Foster Children

The FAP group may choose to include or exclude a foster child whose foster parent is a group member. If excluded, the foster child is **not** eligible for FAP as a separate group, and the foster care payment is **not** income to the group.

Foster Adults

The FAP group may choose to include or exclude a foster adult who lives with the group. If excluded, the foster adult is **not** eligible for FAP as a separate group, and the foster care payment is **not** income to the group.

Exception: This policy does **not** apply to residents of AFC/CLF/AIS homes which are nonprofit and licensed for 16 or fewer residents. Policy in BEM 615, Group Living Facilities and BEM 617, FAP in Nonprofit Group Living Facilities applies to these residents.

LIVING WITH

Living with means sharing a home where family members usually sleep and share **any** common living quarters such as a kitchen, bathroom, bedroom or living room. Persons who share **only** an

access area (e.g., entrance or hallway) or non-living area (e.g., laundry) are **not** considered living together. See BEM 617 for policy regarding persons in other group living situations.

Temporary Absence

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; **and**
- He lived with the group before his absence (newborns are considered to have lived with the group); **and**
- There is a definite plan for his return; **and**
- The absence has lasted or is expected to last 30 days or less.

Exception: The absence may last longer than 30 days if the absent person is in a hospital and there is a plan for him to return to the home. (BEM 212)

For purposes of the Family Independence Program (FIP), Claimant does not meet the requirements of primary caretaker because [REDACTED] does not sleep in her home more than half the days of a month. That makes Claimant ineligible for FIP benefits. Claimant's Medical Assistance (MA) was based on her caretaker relative status to [REDACTED]. Since Claimant does not meet the requirements of primary caretaker she is ineligible for MA.

For purposes of the Food Assistance Program (FAP), [REDACTED] staying with her Claimant for a couple of days on a regular basis does not constitute living together. Since [REDACTED] does not live with Claimant [REDACTED] is not a member of Claimant's FAP benefit group.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides the Department of Human Services properly closed Claimant's Family

Independence Program (FIP) and Medical Assistance (MA) cases because her daughter no longer lived with her.

It is also decided that the Department of Human Services properly reduced Claimant's Food Assistance Program (FAP) benefits because her daughter no longer lived with her.

It is ORDERED that the actions of the Department of Human Services, in this matter, are UPHELD.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 17, 2010

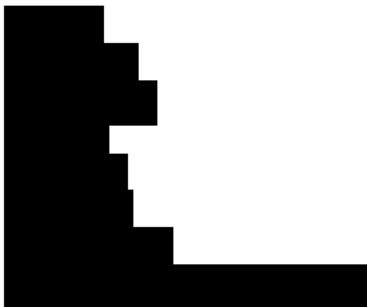
Date Mailed: August 20, 2010

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.

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.

GFH/alc

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