

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.: 201044418
Issue No.: 1010 / 3012
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 19, 2010
Office: Wayne County DHS (17)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 19, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, appeared and testified.

ISSUE

Whether DHS properly issued Family Independence Program (FIP) and Food Assistance Program (FAP) benefits to Claimant beginning 8/1/10 following the addition of group members to Claimant's household.

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 applied for FAP, FIP and MA (Medical Assistance) benefits on 4/28/10.
2. Claimant sought FIP and MA benefits only for her grandchildren, not for herself.
3. Claimant had custody of her three grandchildren on or before 4/28/10.
4. On 4/28/10, Claimant provided DHS with documents from Child Protective Services verifying that all three grandchildren were in her custody after being removed from the household of their biological mother.

5. On 4/28/10, the three grandchildren were on a benefits case with their biological mother as the grantee.
6. Claimant received FAP benefits for a group of one person between 4/28/10 through 7/31/2010 while waiting for DHS to add the three grandchildren to her FAP benefits case.
7. Claimant did not receive any FIP benefits between 4/28/10 through 7/31/10 while waiting for DHS to add the three grandchildren to her FAP benefits case.
8. The three grandchildren received MA benefits from 4/28/10 through 7/31/10 while on an MA case where their biological mother was grantee.
9. Effective 8/1/10, DHS issued FAP and MA benefits for the three grandchildren on a case where Claimant was the grantee.
10. Effective 8/16/10, DHS issued FIP benefits for the three grandchildren on a case where Claimant was the grantee.
11. Claimant requested a hearing on 7/16/10 and contended that she suffered a loss in FIP, FAP and MA benefits while DHS processed the removal from their biological mother's case to Claimant's case.

CONCLUSIONS OF LAW

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 Reference Tables Manual (RFT).

MA provides medical assistance to individuals and families who meet financial and nonfinancial eligibility factors. The goal of the MA program is to ensure that essential health care services are made available to those who otherwise would not have financial resources to purchase them.

Claimant only sought MA benefits for her grandchildren and not for herself. Claimant contended that she received a Notice of Case Action which indicated that MA benefits for her grandchildren were terminated as of 8/1/10 and as a result, she believes that the children might not be covered by MA benefits. DHS indicated that the benefit termination was temporary and done as a matter of bookkeeping as the children were subsequently issued MA benefits through a separate case number. DHS submitted an

Eligibility Summary showing MA benefits are active for the grandchildren beginning 8/1/10. It is found that DHS properly issued MA benefits for Claimant's three grandchildren.

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

The Food Assistance Program (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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

In the present case, Claimant contends that she should have received FAP benefits from 4/28/10 through 7/31/10 for a group of four persons, Claimant and her three grandchildren. DHS began issuing FAP benefits for a group of four to Claimant beginning 8/1/10. DHS responded that the three children received FAP benefits from 4/28/10 through 7/31/10, but the benefits were issued to Claimant's grandchildren's mother. DHS contends that they are unable to issue benefits multiple times to an individual.

Claimant credibly testified that on 4/28/10 she reported to DHS that her three grandchildren were living with her, and not with the grandchildren's mother. Claimant's testimony was verified by her Assistance Application dated 4/28/10 which listed the three grandchildren as living with her. Claimant also credibly testified that she submitted documents from Child Protective Services which verified her custody of the grandchildren.

The primary caretaker is the person who is primarily responsible for the child's day-to-day care and supervision BEM 212 at 1. A child is always in the FAP group of the primary caretaker. *Id* at 3. DHS specialists are required to re-evaluate primary caretaker status when a second caretaker applies for assistance for the same child. *Id* at 4. DHS policy does not give a specific timeframe to re-evaluate primary caretaker status. However, based on the timeframes given for each of the procedures within the process, a reasonable timeframe can be constructed.

DHS specialists are given 10 days to process non-income FAP benefit changes and 15 days to act on non-income FIP benefit changes. BAM 220 at 5. A change in group members who are receiving benefits on another case requires removing the members from another case. Thus, the first step for DHS would have for Claimant's specialist to inform the specialist of the biological mother that an application was submitted disputing the mother's custody of the children. The specialist of the biological mother would have 10-15 days to mail a Verification Checklist to the mother requesting documents which supported her claim to custody of the children. The Verification Checklist must allow 10 days for return of the documents. BAM 130 at 5. In the present case, the mother did not respond to the verification request.

After the due date for the checklist, the grandchildren's mother is entitled to timely notice of a benefit reduction. DHS must mail a notice at least 11 days before the intended negative action takes effect. BAM 220 at 4. Thus, a process of approximately 45 days is appropriate for DHS to evaluate changes in primary caretaker. After this process, the removed group members can be added to a benefit case effective the month following the negative action date.

In the present case, Claimant reported the change in household members on 4/28/10. Adding 45 days to the 4/28/10 would mean that 6/13/10 would be a reasonable date to complete the removal of members from an active benefits case. 7/2010 would be the appropriate first benefit month to include the grandchildren as group members in Claimant's benefit group. It is found that DHS should have evaluated the primary caretaker change to affect Claimant's FIP and FAP benefits for 7/1/10.

At the opening of a FIP benefits case, the group is eligible for benefits no earlier than the pay period in which the application becomes 30 days old. BAM 400 at 2. Claimant's application was 30 days old in 5/2010. The failure by DHS to timely add the grandchildren on to Claimant's FAP benefit case until 7/2010 explains the FAP benefit issuance beginning 8/1/10 but does not explain why DHS issued FIP benefits beginning 8/16/10. It is found that DHS should also supplement Claimant for FIP benefits from 8/1/10-8/15/10 in addition to 7/2010.

DECISION AND ORDER

The actions taken by DHS are partially AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly issued MA benefits to Claimant's grandchildren.

The actions taken by DHS are partially REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly delayed the addition of Claimant's grandchildren to her FIP and FAP benefits. It is

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ordered that DHS supplement Claimant for FAP benefits for 7/2010 based on a FAP group which includes Claimant's three grandchildren as group members. It is ordered that DHS supplement Claimant for FIP benefits for 7/2010 and 8/1/10-8/15/10 based on a FIP group which includes Claimant's three grandchildren as group members.

/s/



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 27, 2010

Date Mailed: August 27, 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.

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