

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: 2010-16349

Issue No: 2013, 3002

Case No:

Load No:

Hearing Date:

April 14, 2010

Kent County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 Lansing, Michigan on April 8, 2010.

ISSUE

Whether the Department properly computed the Claimant's Food Assistance Program (FAP) and Medical Assistance (MA) eligibility?

FINDINGS OF FACT

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

1. The Department worker was contacted by a worker in Ottawa County who informed her that the child's father has the child more days in the month than Claimant and requested that the child be removed from Claimant's case so that he can be added to the father's case. (Exhibits 2, 3)

2. On December 30, 2009, the Department sent Claimant a Notice of Case Action which informed her that the MA case for her and her child was cancelled and her FAP benefits would decrease to \$200/mo effective February 1, 2010 based on this information. (Exhibit 1)

3. On January 11, 2010, the Department received the Claimant's hearing request.

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 (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 Bridges Reference Manual (BRM).

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. Departmental policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Bridges Reference Manual (BRM).

When a child spends time with multiple caretakers who do not live together (e.g., joint physical custody, parent/grandparent, etc.), the Department determines a primary caretaker by how many days the child sleeps at each individuals home. Only one person

can be the primary caretaker and the other caretaker(s) is considered the absent caretaker(s). The child is always in the FAP group of the primary caretaker.

In the instant case, Claimant agreed that the current support states that the child has 157 overnights with her and 208 with the child's father, but she stated that she is the one that takes the child to the doctor and also that her child's father is currently living with his parents. Claimant is dissatisfied with the Department's current policy as it relates to computation of FAP and MA benefits in this situation. Administrative Law Judges, however, have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the Department policy set out in the program manuals.

With the above said, based on the testimony and documentation offered at hearing, I find that the Department established that it acted in accordance with policy in computing Claimant's MA and FAP eligibility.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department acted in accordance with policy in computing Claimant's MA and FAP eligibility.

Accordingly, the Department's MA and FAP eligibility determinations are AFFIRMED, it is SO ORDERED.

/s/ _____
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: April 15, 2010

Date Mailed: April 16, 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.

SB/lk

cc:

