

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: 2010-32391

Issue No: 1022

Case No:

Load No:

Hearing Date:

May 27, 2010

Wayne County (76)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

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 May 27, 2010. Claimant appeared and testified.

ISSUE

Did the Department properly deny Claimant's application for Family Independence Program (FIP)?

FINDINGS OF FACT

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

1. On August 2, 2009, the Claimant applied for FIP, FAP and MA.
2. The Department denied the Claimant's application for FIP since the children were active on another case.
3. On April 4, 2010, the Claimant requested a 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 (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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In the present case, Claimant filed a hearing request due to the Department's failure to provide FIP to her family. The Claimant applied in August 2009 and provided a copy of adoption papers which indicated she adopted her grandchildren a year earlier. The Department attempted to process the FIP application but was unable to open FIP benefits for the Claimant since the Department had an open case for the children in question under the Claimant's daughter's name. The Department attempted to have the other case closed, but it took several months before the other office in charge of the daughter's case closed the benefits. The Department representative agreed, during the hearing, the Claimant had custody of the children in question.

The records submitted for consideration clearly indicate the Claimant had legal custody of the children in question. The Claimant provided a copy of the adoption papers which indicate the adoption took place a year prior to the application.

Relevant policy BEM 210, p. 1-6:

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.

The Department is correct in determining concurrent benefits are not allowed for FIP benefits. However, the Department, not the Claimant, has the ability to remedy the concurrent benefit issue. The Claimant provided clear documentation regarding her household members. The Department needed to close the other FIP case and not deny the Claimant's application. The Department had an obligation to act upon the information received.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds the Department acted contrary to Department policy.

It is ORDERED that the Department's decision in this regard be and is hereby REVERSED. The Department is to reprocess the Claimant's application dated August

2, 2009 and supplement the Claimant for any loss in benefits back to the date of application.



Jonathan W. Owens
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 06/16/2010

Date Mailed: 06/16/2010

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 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.

JWO/cip

cc:

