

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.: 2010-38942
Issue No.: 1002/3004/6019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 29, 2010
Wayne County DHS (58)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37 and Claimant's request for a hearing. After due notice, a three-way telephone hearing was held on July 29, 2010. Claimant appeared and testified. [REDACTED]

[REDACTED], testified for the Department of Human Services (DHS).

ISSUES

1. Whether Claimant is entitled to Family Independence Program (FIP) benefits for herself and her two children?
2. Whether Claimant is entitled to Child Development and Care (CDC) benefits for herself and her two children?
3. Whether Claimant is entitled to Food Assistance Program (FAP) benefits for herself and her two children?

FINDINGS OF FACT

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

1. Claimant received FIP, FAP and CDC benefits for herself and her two children in 2009.
2. On December 15, 2009, temporary custody of the children was awarded to [REDACTED], the father.

3. Claimant reported the change of custody to DHS in a timely manner.
4. DHS failed to terminate Claimant's benefits.
5. In about December, 2009, [REDACTED] applied for and was granted FIP and FAP benefits for himself and the two children.
6. On March 9, 2010, Claimant was awarded permanent custody of the children.
7. On March 12, 2010, Claimant applied to reopen her FIP, FAP and CDC benefits.
8. As of March 12, 2010, DHS granted FAP and CDC benefits to Claimant but not to her children.
9. On April 27, 2010, DHS closed Claimant's FAP benefits and stated that the reason for the closure was that she failed to provide information necessary to verify her application.
10. On June 1, 2010, Claimant filed a request for a hearing with DHS.

CONCLUSIONS OF LAW

FIP was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 United States Code Section 601 *et seq.* DHS administers FIP pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules (MAC R) 400.3101-3131. DHS policies and procedures are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

FAP was 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). DHS administers FAP pursuant to MCL 400.10 *et seq.*, and MAC R 400.3001-3015. Department policies are found in BAM, BEM and RFT.

CDC was 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 CFR Title 45, Parts 98 and 99. DHS provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in BAM, BEM and RFT.

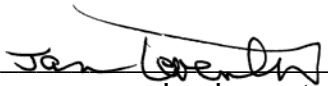
BAM 130, "Verification and Collateral Contacts," is the DHS policy and procedure section applicable to this matter. The March 1, 2010, version of BAM 130 is the version that was in effect on March 12, 2010. As BAM 130 has been updated since then, the earlier version is not available online.

At the hearing, Claimant testified that she provided all verification requested for her March 12, 2010, application. DHS accepted Claimant's verification and initiated partial benefits, but did not request further verification. Therefore, I am persuaded that verification was sufficient as of March 12, 2010. I am also persuaded that verification was sufficient because, at the hearing, DHS could not testify as to what verification Claimant failed to provide, nor did DHS testify that it took steps to request verification that was purportedly needed.

I find and conclude that the requirements of BAM 130 have been met, and Claimant is eligible for FIP, FAP and CDC benefits for herself and her two children as of March 12, 2010. I conclude that DHS erred in providing FAP and CDC benefits solely to Claimant and should have provided FIP, FAP and CDC benefits to the family group of three, i.e., Claimant and her two children. I conclude that DHS' action shall be REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, holds that DHS is REVERSED. DHS shall provide appropriate FIP, FAP and CDC benefits to Claimant as of March 12, 2010, for a group of three persons, in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 3, 2010

Date Mailed: August 3, 2010

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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 60 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.

JL/pf

cc:

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