

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: 20104008
Issue No: 1022, 3014
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
January 25, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

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 conducted from Detroit, Michigan on January 25, 2010. The Claimant appeared and testified. Yolanda Brown-Ali, FIM appeared for the Department.

ISSUE

Whether the Department properly denied the Claimant Food Assistance Program ("FAP") and Family Independence Program ("FIP") benefits based on group composition?

FINDINGS OF FACT

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

1. The Claimant applied for FAP and FIP benefits on 8/20/09.
2. Claimant's three children were placed in foster care and were returned to her care and custody on [REDACTED].

3. The Hearing Summary indicates that the application was denied on 9/24/09 due to the failure to resolve issues with group composition. Specifically, one daughter had an open FIP case with a foster parent.
4. The foster parent did not request closure of his case including Claimant's daughter until 10/5/09.
5. The Department denied FIP benefits for all three of Claimant's children effective 9/24/09.
6. Claimant reapplied for FIP and was granted FIP benefits for the month of November, 2009.
7. On October 5, 2009, the Department received the Claimant's hearing request protesting the denial of the FAP and FIP benefits.

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 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 ("RFT").

The FIP EDG includes all household members whose information is needed to determine FIP eligibility. BEM 210, p. 3. When cash assistance is requested for a dependent child, all of the following individuals who live together are in the FIP EDG group, regardless of program request status:

- Dependent Child
- Child's legal parent(s).
- Child's legal siblings who meet the definition of a dependent child (siblings have at least one legal parent in common).
- Legal parent(s) of the child's siblings.
- Child's legal stepparent, even after death of or divorce from the parent.
- Child's legal stepsiblings who meet the definition of a dependent child, even after death of or divorce from the parent.
- Child's child.

BEM 210, p. 3-4.

A recipient of children's foster care payments, however, has a FIP EDG participation status of excluded child, (not in the FIP EDG). The income, assets, needs and relationships to other household members are not considered. This child has no affect on the FIP eligibility determination. BEM 210, p. 6. When the number of days per month a child sleeps in the home of multiple caretakers is questionable or disputed, each caretaker should be given the opportunity to provide evidence of their claim. The primary caretaker determination should be based upon the best available information and evidence supplied by the caretakers. BEM 210, p. 7. When caretaking time of a dependent child is disputed or questionable, examples of proof to be considered include, but are not limited to, the most recent court order that addresses custody and/or visitation or other documents or collateral contacts that support/contradicts the caretaker's claim. BEM 210, p. 12.

A parent or other FIP caretaker, must notify the department of a child's absence from the home within five days of the date it becomes clear to the caretaker that the child will be absent for 30 days or more. If the child's absence does not meet temporary absence requirements to be considered in the home, the caretaker who fails to notify the department within five days is disqualified for one month. BEM 210, p. 11

In the subject case, the Department indicated that it denied benefits because one of the children, a mandatory group member, was still receiving benefits on a foster parent's case. The Department did not dispute that Claimant had provided appropriate verification and Claimant testified that her children were returned to her on [REDACTED] based on a [REDACTED] court order. The regulations are clear that if there is a discrepancy in who is providing care for the child, the actual caretaker should be decided based on the best evidence provided, including a recent court order. If the Department had determined that Claimant's daughter was still a foster child, then the daughter would have been excluded from the EDG group and Claimant would have been entitled to FIP benefits for her other two children.

Once the Claimant applied for benefits, however, the Department was on notice that Claimant's daughter was no longer living with the foster parent. The regulations dictate that the foster parent had only 5 days to report the absence of the child, presumably to allow the child to receive benefits elsewhere if necessary. The regulations allow for recoupment of overissuances through BAM 700, precisely for this type of situation. In the present case, the Department's actions did not comply with policy and effectively punished all three children, who were without any benefits for two months.

Accordingly, it is found that the Department's denial of the Claimant's 8/20/09 FIP and FAP benefits is REVERSED.

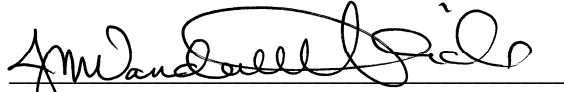
DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that there was insufficient evidence presented to affirm the Department's actions.

Accordingly, it is held:

1. The Department's determination to deny Claimant's 8/20/09 FIP and FAP application is REVERSED.

2. Claimant's FIP and FAP shall be reopened as of the date of closure, 9/24/09 and the Department shall supplement the Claimant for any lost benefits she was otherwise entitled to receive.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 03/09/10

Date Mailed: 03/11/10

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.

JV/dj

cc:

