

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: 2010-557
Issue No: 3012
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
November 2, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 November 2, 2009.

ISSUE

Was the claimant's FAP amount properly allocated?

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 in Wayne County on August 6, 2009.
- (2) Claimant applied for benefits for herself and a child of whom she had been made legal guardian.
- (3) The child had originally been on his mother's case; however, in July, 2009, the claimant gained legal guardianship of the child.

- (4) The child's caseworker in Macomb County failed to process the change and remove the child from the mother's case.
- (5) FAP benefits were only approved for the claimant, and not for the child.
- (6) On September 17, 2009, DHS received a request for hearing, which stated that the child should have been a member of the child's case.

CONCLUSIONS OF LAW

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

The current case is remarkably simple. In the case, the Department representative acknowledged and admitted that the claimant had legal guardianship of the child in question, and under policy, should be on the claimant's case. However, the Department was slow to process that change, because the original caseworker in another district had failed to process the change timely.

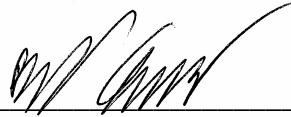
This is not the claimant's fault, and the claimant did nothing to bring about the situation. Any delay in processing is the fault of the Department, and the claimant should not be grieved because of the Department's failure to process the change timely. The Department must award claimant benefits retroactive to the original application date, for both claimant and the claimant's child.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to not process the claimant's application for the child of which claimant had legal guardianship was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby,
REVERSED.

The Department is ORDERED to add the child in question to the claimant's case, retroactive to the date of application, August 6, 2009. Supplemental benefits are to be awarded to the claimant, retroactive to this date, to account for any benefits claimant was entitled to, but did not receive, because the child had not been added to claimant's case.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/17/09

Date Mailed: 12/21/09

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.

RJC/dj

2010-557/RJC

cc:

