

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. 20108119  
Issue No. 1010 / 3012  
Case No. [REDACTED]  
Load No. [REDACTED]  
Hearing Date: August 24, 2010  
Office: Wayne County DHS (76)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**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 held on August 24, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Manager, appeared and testified.

**ISSUE**

Whether DHS properly and timely added a group member to Claimant's FIP and FAP benefits group.

**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 was an ongoing FAP recipient.
2. On 3/10/09, Wayne County Circuit Court ordered that Claimant was awarded custody of his child, [REDACTED].
3. Claimant reported the change in custody of [REDACTED] on 3/10/09 to DHS by submitting a court order (Exhibit 2) and a letter (Exhibit 1) signed by Claimant and the child's mother which stated that the child's mother relinquished custody to Claimant.
4. Claimant applied for FIP benefits on 3/30/09.

5. DHS did not issue Claimant FIP or FAP benefits including the child in Claimant's benefit group until 10/1/09.
6. Claimant submitted a hearing request on 4/23/09 disputing the DHS failure to adjust Claimant's FAP benefits to reflect the addition of Claimant's son as a group member; Claimant also disputed the DHS denial of his FIP benefits for the same reason.

### **CONCLUSIONS OF LAW**

The Food Assistance Program (formerly known as the Food Stamp 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 (formerly known as the Family Independence Agency) 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 Reference Tables Manual (RFT).

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Specialists must act on a change affecting FAP benefits within 10 days of the reported change. BAM 220 at 5. Specialists must act on a change affecting FIP benefits within 15 days of the reported change. *Id.* "Act on" does not necessarily require that the change be fully processed. The undersigned interprets the meaning of these requirements to mean that the specialist must begin the process of the change within that timeframe. The process will depend on the change that is reported.

In the present case, Claimant reported on 3/10/09 that he was awarded custody of his biological son. At the time Claimant reported the change, his son was actively receiving benefits as part of a case in which his mother was the grantee. The DHS database does not allow individuals to receive benefits on multiple cases. Thus, before adding the child on Claimant's benefits case, the child had to be removed from his mother's benefits case.

DHS policy outlines the necessary steps for this process. The first step would have been for Claimant's specialist to inform the specialist of the biological mother that the

biological father submitted documents disputing the mother's custody of her child. The specialist of the biological mother would have 10-15 days to mail a Verification Checklist to the mother requesting documents which supported her claim of custody for the child. The Verification Checklist must allow 10 days for return of the documents. BAM 130 at 5. After the due date for the checklist, DHS must evaluate the documents submitted by each person claiming custody and determine on which benefits case the child rightly belongs. In the present case, there was no dispute, as the biological mother did not claim to have custody. Nevertheless, the mother is entitled to timely notice of the benefit reduction removing group members from the case. A timely notice is mailed at least 11 days before the intended negative action takes effect. BAM 220 at 4. Thus, a process of approximately 45 days is appropriate for DHS to fully evaluate disputes in primary caretaker. After this process, the removed group members can be added to a benefit case effective the month following the negative action date.

In the present case, DHS waited from 3/10/09, the date Claimant reported and verified his custody of the child, until 10/1/09, the first date Claimant received benefits with his child being added as a group member. DHS contended that they were unable to add the child onto Claimant's benefit case because the child was actively receiving benefits on his mother's case during that time. DHS took over six months to complete a process that should have taken approximately 45 days. It is irrelevant whether Claimant's DHS office failed to adequately communicate the change in custody to another DHS office or whether the biological mother's DHS office failed to act on the change in custody. In either event, the fault lies with DHS. It is found that DHS failed to timely process Claimant's change in custody.

Adding 45 days to the date of the reported change would create a target date of 4/23/10 to fully process the change in group members. As previously indicated, the effective benefit month of the change is the month following the negative action date. It is found that DHS should have processed the change in group members to be effective 5/1/09 for Claimant's FIP and FAP benefits..

DHS denied Claimant's FIP benefit application because they could not add Claimant's child onto Claimant's benefit case. By not having a minor child, Claimant was not eligible for FIP benefits. This issue is addressed above. However, DHS testified that they also denied Claimant's application for FIP benefits due to Claimant's failure to participate with a required Jobs, Education and Training (JET) program.


Federal and State laws require each work eligible individual (WEI) in a FIP group to participate in the Jobs, Education and Training (JET) Program or other employment-related activities unless that person is either temporarily deferred or engaged in activities that meet participation requirements. BEM 230A. All WEIs who fail, without good cause, to participate in employment or self-sufficiency-related activities will be penalized.

DHS did not supply any verification of documents supporting the alleged noncompliance. DHS did not assert the issue within the Hearing Summary. DHS did not indicate there was a written denial for a failure to comply with JET. The Notice of Case Action informing Claimant of the reason that DHS denied FIP benefits was not submitted, however, all other submitted evidence points to the basis for FIP denial not being due to noncompliance with JET participation. The undersigned is not inclined to consider a JET participation issue when it was not the basis for a denial. It is found that Claimant's JET participation was not a factor in the DHS denial of FIP benefits.

**DECISION AND ORDER**

The actions taken by DHS are REVERSED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to timely process Claimant's reported change in group members concerning his FAP benefits. DHS also improperly denied Claimant's application for FIP benefits by not considering Claimant's child as a group member. It is ordered that DHS calculate Claimant's eligibility for FIP and FAP benefits from 5/1/09 through 9/30/2009 and to include Claimant's child as a household member. DHS shall supplement Claimant for any FIP and FAP benefits not received as the result of the DHS failure to timely process Claimant's reported change in custody.

/s/

  
Christian Gardocki  
Administrative Law Judge  
For Ismael Ahmed, Director  
Department of Human Services

Date Signed: August 27, 2010

Date Mailed: August 27, 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.

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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.

CG / hw

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