

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.: 2011-10789
Issue No.: 1022/2012/3014
Case No.: [REDACTED]
Hearing Date: January 19, 2011
Wayne County DHS (35)

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 January 19, 2011. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly failed to add reported group members to affect Claimant's Food Assistance Program (FAP), Family Independence Program (FIP) and Medical Assistance (MA) benefits.

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 FIP, FAP and MA benefit recipient.
2. Claimant's household included herself and her six biological children.
3. On 9/30/09, Claimant submitted an Assistance Application to DHS listing five addition children to her household and requested FIP, FAP and MA benefits for each of the children.
4. DHS failed added four of the five children to Claimant's FIP, MA and FAP benefits.

5. DHS also neglected to remove a seventh biological of Claimant's as a household member from Claimant's ongoing benefits.
6. On 1/26/10, Claimant submitted a hearing request to DHS disputing the lack of actions taken concerning the addition of household members to her FIP, FAP and MA benefits case.

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).

For FAP benefits, a member add that increases benefits are effective the month after it is reported. BEM 212 at 7. This policy is repeated in BEM 550 at 3. DHS specialists are to act on FAP benefit changes within 10 days after being made aware of the change. BAM 220 at 5.

In the present case, DHS did not dispute that Claimant reported six children moving into her household on 9/30/09. DHS also did not dispute that over one year later, Claimant is still awaiting those children to be added to her FAP benefit case. DHS provided no explanation as to why the children were not timely added. Based on the presented evidence, it can only be found that DHS shall immediately process Claimant's 9/30/09 reported change of household members concerning Claimant's FAP benefits.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The undersigned was unable to locate a specific member add policy for MA benefits. The submission of an application requesting MA benefits for new group members is appropriately considered an application for MA benefits rather than a reported change. The timeframe DHS specialists are given to process MA applications is 45 days. BAM 115 at 11. In the present case, DHS waited over one year and Claimant has yet to receive a decision concerning the MA application dated 9/30/09 concerning five of six newly reported household members. Again, DHS provided no explanation for the delay.

Again, it may only be found that Claimant is entitled to a processing of the MA benefits for the children for which MA benefits were applied.

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).

Member additions resulting in a grant increase will affect the month after the month the change occurred. BEM 515 at 3. DHS specialists must act on changes to FIP benefits within 15 workdays after being made aware of the change. BAM 220 at 5.

In the present case, Claimant has waited approximately 16 months for DHS to process the reported change of household members to affect her FIP benefits. Again, DHS provided no explanation for the delay. Again, it shall be ordered for DHS to process the change.

Claimant is entitled to the addition of members to her FIP and FAP benefits and will likely receive a supplement for each program. It should be noted that if DHS calculates Claimant's benefit supplements correctly, a current group member may be removed from the calculation as Claimant testified that one of her children moved out prior to the submission of her application dated 9/30/09. Also, other household members may not be eligible for FIP benefits which require the inclusion of dependent children. A dependent child is defined as an unemancipated child who lives with a caretaker and is either under age 18; or age 18 or 19 and a full-time high school student expected to graduate before age 20. *Id.* Based on Claimant's testimony, some of the reported members may not meet the definition of dependent child for all or part of the FIP benefit period after 9/30/09. Claimant may certainly request another administrative hearing if she disputes the yet to be made FIP, FAP or MA benefit determinations by DHS.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly failed to timely process Claimant's reported addition of group members to her ongoing FIP, MA and FAP benefit issuances. It is ordered that DHS shall process Claimant's reported change of household members dated 9/30/09 and that Claimant shall be supplemented for any FIP and FAP benefits not received as a result of the lack of timeliness by DHS. DHS shall also process the application dated

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9/30/09 concerning MA benefits for any members which Claimant sought MA benefits. The actions taken by DHS are REVERSED.

Christian Gardocki

Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 2/4/2011

Date Mailed: 2/4/2011

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.

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