

**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.: 2011-17598
Issue Nos.: 1005, 2018,
3000, 6043
Case No.: [REDACTED]
Hearing Date: April 13, 2011
DHS County: Wayne (82-49)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 hearing was held in Detroit, Michigan, on Wednesday, April 13, 2011. The Claimant appeared, along with [REDACTED], and testified. [REDACTED] and [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUES

1. Whether the Department properly terminated the Claimant's Family Independence Program ("FIP") cash assistance effective December 1, 2010?
2. Whether the Department properly denied the Claimant's September 26, 2010, Child Care and Development ("CDC") application?
3. Whether the Department properly removed one of the Claimant's minor children from her Medical Assistance ("MA") benefit program?

FINDINGS OF FACT

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

1. The Claimant is a Food Assistance Program ("FAP") and MA benefits recipient. (Exhibit 4)
2. On September 26, 2010, the Claimant submitted an application for public assistance on seeking FIP and CDC benefits.

3. On September 30, 2010, the Department notified the Claimant that one of her minor children was not eligible for MA benefits based on his residency status. (Exhibit 3)
4. On October 27, 2010, the Department sent a Notice of Case Action informing the Claimant that the FIP benefits would terminate effective December 2010 due to a reported Office of Child Support (“OCS”) non-cooperation.
5. On this same date, the Department notified the Claimant that the CDC benefits were denied due to the OCS non-cooperation.
6. On November 8, 2010, the OCS issued a Cooperation Notice. (Exhibit 2)
7. The Claimant’s FIP benefits terminated effective December 1, 2010.
8. On January 18, 2011, the Department received the Claimant’s timely written request for hearing.

CONCLUSIONS OF LAW

As a preliminary matter, the Claimant requested a hearing, in part, regarding her FAP benefits. During the hearing, the Department presented a Bridges Eligibility Summary which shows that the Claimant received FAP benefits for the months of October 2010 through February 2011 in the amount of \$668.00/month. Although the FAP case recently closed (for which the Claimant may request a hearing), the Claimant agreed with the FAP assistance for the time period at issue. In light of the accord, the Department’s FAP determination is AFFIRMED.

The Claimant also requested a hearing regarding her FIP, CDC, and MA benefits. Each program will be addressed separately.

FIP Benefits

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 (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules R400.3101-3131. FIP replaced the Aid to Dependent Children program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Bridges Reference Manual (“BRM”).

Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the Department including OCS, the Friend of the Court, and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255. Cooperation is a condition of eligibility. BEM 255. The head of household and the parent of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255.

In this case, OCS issued a Non-cooperation Notice. As a result, the Claimant's FIP benefits were pended for closure effective December 1, 2010. On November 8th, OCS issued a Cooperation Notice; however, the Claimant's FIP benefits terminated the end of November. In light of the foregoing, it is found that the termination of FIP benefits is not upheld as the Claimant was in compliance with OCS.

CDC Benefits

The CDC program is 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 Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department 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 BRM.

The goal of the CDC program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified families. BEM 703. The Department may provide payment for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, education, and/or because of a health/social condition for which treatment is being received and care is provided by an eligible provider. BEM 703. Child care may be provided in or out of the child(ren)'s home. BEM 704. Clients have the right to choose where the care will be provided as well as the type of child care provider they wish to use. BEM 704. In order for the Department to pay, care must be provided in Michigan by an eligible provider. BEM 704. Day care aides and relative care providers are enrolled by the Department to provide care but are not required to be regulated. BEM 704. A day care aide is an individual, including a relative, who provides care in the home where the child lives. BEM 704. A relative care provider is related to the child needing care by blood, marriage or adoption. BEM 704.

In this case, the Claimant submitted an application for CDC benefits on September 26, 2010. In processing the application, the OCS non-cooperation was discovered as was

the fact that the Claimant's provider was not yet enrolled by the Department to provide care. As a result, on October 27th, the CDC application was denied. Subsequently, the provider was enrolled by the Department; however, the Claimant did not submit a new application until January 18, 2011. Under these facts, the Department established it acted in accordance with Department policy when it denied the Claimant's CDC application.

MA Benefits

The MA program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act, 42 USC 1397, and is administered by the Department pursuant to MCL 400.10 *et seq.* and MCL 400.105. Department policies are found in BAM, BEM, and BRM.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105. Medicaid is also known as Medical Assistance ("MA"). BEM 105. The Medicaid program is comprised of several categories; one category is for FIP recipients while another is for SSI recipients. BEM 105. Programs for individuals not receiving FIP or SSI are based on eligibility factors in either the FIP or SSI program and, thus, are categorized as either FIP-related or SSI-related. BEM 105. To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formally blind or disabled. BEM 105. Families with dependent children, caretaker relatives of dependent children, persons under age 21 and pregnant, or recently pregnant women receive MA under FIP-related categories. BEM 105.

BEM 110 defines a "dependent child" as is a person who lives with his parent(s), or other specified relative who acts as the parent, and is:

- Under age 18, or
- Age 18 or 19 and a full-time high school student who is expected to graduate before age 20

A child is considered to be living with only one parent in a joint custody arrangement whether formal or informal agreement exists. BEM 110. This is the parent who provides the home where the child sleeps more than half of the days in a month, when averaged over a twelve month period. BEM 110.

In this case, the Claimant's 17 year old son is attending high school near his father's home which means he spends more physical time at his father's home versus the Claimant's home. As a result, the Department properly removed the Claimant's son from her MA case in accordance with BEM 110.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds the Department's determinations are AFFIRMED in part, REVERSED in part.

Accordingly, it is ORDERED:

1. The Department's FAP determination is AFFIRMED.
2. The Department's termination of FIP benefits is REVERSED.
3. The Department shall re-open the Claimant's FIP benefits from the date of closure and supplement for lost benefits (December 2010 and January 2011) that the Claimant was entitled to receive if otherwise eligible and qualified in accordance with Department policy.
4. The Department's denial of the CDC application is AFFIRMED.
5. The Department's MA determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: April 20, 2011

Date Mailed: April 21, 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.

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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.

CMM/pf

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