

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg No: 2011-26222
Issue No: 1022
Case No: [REDACTED]
Hearing Date:
May 26, 2011
Wayne County DHS (57)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 on May 26, 2011. The Claimant [REDACTED] appeared and testified. J. H. Jones Jr., FIM and Kelley Davenport, ES appeared on behalf of the Department.

ISSUE

Whether the Department properly excluded the Claimant's foster child [REDACTED] [REDACTED] from the Claimant's FIP group when it certified its compliance with the Decision and Order issued October 28, 2010.

Whether the Department properly denied Child Day Care benefits for [REDACTED] [REDACTED] as not an eligible child living outside the home.

FINDINGS OF FACT

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

1. At the hearing held October 13, 2010, the Department agreed to resolve the Claimant's October 1, 2009 hearing request regarding her foster child [REDACTED] inclusion in her FIP group.
2. A Decision and Order, dated October 21, 2010, was issued by Administrative Law Judge McClintic as a result of the settlement of the Claimant's Request for Hearing wherein the Department agreed and it was ordered as follows: ... "Therefore it is ORDERED that the Department reprocess Claimant's FIP benefits beginning October 2009 to include [REDACTED] in the household. Any missed benefits shall be paid to Claimant in the form of a supplement." Exhibit 1
3. The Department certified the Decision and Order on November 18, 2010 and advised: "Child cannot be eligible for FIP benefits when foster care parent is receiving foster care payments." The certification also attached BEM 210 pages 5- 7 and an email from a foster care worker. Exhibit 2
4. The Claimant's FIP case closed on October 1, 2010 as [REDACTED] [REDACTED] was no longer eligible. No other reason was given. Exhibit 5
5. In [REDACTED], the Claimant adopted [REDACTED] and receives an adoption subsidy. Prior to the adoption, [REDACTED] was the Claimant's foster child.
6. The Claimant became a foster parent for [REDACTED] on [REDACTED] [REDACTED] and adopted [REDACTED] on [REDACTED].
7. By Notice of Case Action dated September 16, 2009, the Department found [REDACTED] eligible for CDC benefits.

8. By Notice of Case Action, dated September 8, 2010, the Department denied CDC benefits for [REDACTED] for the reason he was not eligible, group is not eligible because did not meet child day care requirements.
9. A CDC certification, dated [REDACTED], indicated that two case numbers existed for [REDACTED]. The Department denied case [REDACTED] for [REDACTED] for the reason the certified individual lives outside the home.
10. The Department also denied case [REDACTED] for [REDACTED] [REDACTED], stating the reason for the denial was no valid need reason. Exhibit 3
11. The Department, on March 13, 2011, in a CDC Eligibility Summary, found [REDACTED] eligible for CDC and [REDACTED] as an excluded child.
12. The Claimant requested a hearing on February 25, 2011, protesting the Department's failure to make payment for CDC benefits for her foster child [REDACTED] and disputing the Department's failure to include [REDACTED] in her FIP group.

CONCLUSIONS OF LAW

FIP

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 Bridges Reference Manual (“BRM”).

In this case, the Claimant requested a hearing to determine whether the Department correctly complied with a settlement it made to resolve the Claimant’s prior hearing request. The Hearing Decision ordered that “the Department reprocess Claimant’s FIP benefits beginning October 1, 2009, to include [REDACTED] in the household. Any missed benefits shall be paid to Claimant in the form of a supplement.”

After the Decision was issued, the Department determined that because [REDACTED] [REDACTED] was a foster child and the Claimant was receiving Foster Care Payments for [REDACTED], he could not be included in the Claimant’s household for purposes of determining her FIP benefits. The Department reprocessed the Claimant’s FIP case and did not issue a supplement as no missed benefits were due the Claimant.

The Department, when it settled the Claimant’s hearing request, essentially agreed to do something it could not do, and that was to include the Claimant’s foster child [REDACTED] in her FIP group. To include this child in the FIP group is contrary to Department Policy and not allowed. The Department determined, based on BEM 210 that a foster child cannot be included in the FIP group and the Claimant could not receive FIP for this child as she was receiving foster care payments.

Policy found in BEM 210 provides that receipt of other types of program benefits affects an individual’s FIP eligibility and includes child foster care payments. It further provides that a recipient of children’s foster care payments has a FIP Eligibility status of

excluded child. The income, assets, needs and relationships to other household members are not considered. This child has no affect on the FIP eligibility determination.

After review of ALJ McClintic's Decision and Order, and Department policy it is determined that the Department properly reprocessed the case and that the child in question was properly excluded from the FIP group as the child could not be included in the household and no supplement for FIP benefits was appropriate. BEM 210. pages 5 and 6. Therefore it is determined that the Department is excused from compliance with the Decision and Order with regard to including the foster child in the FIP group because a ruling to include the child in the FIP group would be in contravention of established Department Policy. As the settlement effectuated by the terms of the Decision and Order is contravention of established Department policy found in BEM 210 the Department's certification is upheld and its determination is affirmed.

CDC

The Child Development and Care 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 of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

In this case the specific reasons for closure of the Claimant's foster child, [REDACTED] CDC case could not be determined. The Claimant received CDC benefits for this child, beginning [REDACTED], and one year later, September 8, 2010, the CDC was denied. As of February 27, 2011, the Department had two cases open for this child and denied eligibility in both cases. Exhibit 3. Subsequently, on March 13, 2011, the Department found [REDACTED] eligible and [REDACTED] ineligible. Exhibit 4. Based upon the information available at the hearing, the CDC benefits were corrected as of March 13, 2011, and the child was covered, based on the CDC eligibility summary.

Because the Department had gaps in the information which was provided during the hearing as to when CDC eligibility was available for this child, prior to March 13, 2011, it cannot be determined whether the Claimant had CDC benefits for this child for the period September 26, 2010 through March 13, 2010, and therefore the Department's closure/denial in September 2010 cannot, on the record presented, be upheld. The Department's denial of the Claimant's CDC for [REDACTED] as of September 26, 2010, is incorrect as the basis for this action was not explained with specificity to determine if it was correct and what occurred thereafter until March 2011. Therefore, the Department's denial of CDC benefits for [REDACTED] is reversed.

DECISION AND ORDER

FIP

The administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's determination that [REDACTED] could not be included in the Claimant's household for purposes of calculating the

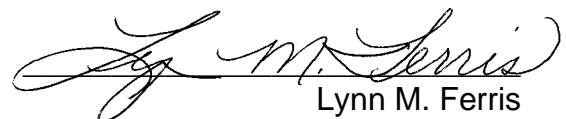
Claimant's FIP benefits was correct as the child is an excluded child and its certification of the October 21, 2010 Decision and Order of Judge McClintic is AFFIRMED.

CDC

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department's proofs at the hearing did not demonstrate that the Claimant's CDC benefits were properly denied for [REDACTED] as of September 26, 2010. Therefore, the Department must determine the reason for case closure and determine CDC eligibility for [REDACTED] during the period September 26, 2010 through March 13, 2011. The Department's denial of CDC benefits for [REDACTED] is REVERSED.

Accordingly, it is ORDERED:

1. The Department shall review its denial of the CDC benefits for [REDACTED] as of September 26, 2010, and shall determine CDC eligibility retroactive to the denial of CDC benefits through March 13, 2011.
2. If the Department determines that it incorrectly denied CDC benefits to the Claimant for [REDACTED], it shall issue a supplement for CDC benefits for any period the Claimant was eligible to receive CDC benefits during the period September 26, 2010 through March 13, 2011.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 06/22/11

Date Mailed: 06/24/11

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.

LMF/dj

cc:

